

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.

FEDERAL TRADE COMMISSION,

Plaintiff

v.

GARDEN OF LIFE, INC. AND
JORDAN S. RUBIN,

Defendants.

**STIPULATED FINAL ORDER AND JUDGMENT FOR
PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

Plaintiff the Federal Trade Commission ("FTC" or "Commission") filed a Complaint for

Permanent Injunction and Other Equitable Relief against defendants Garden of Life, Inc. and

Jordan S. Rubin ("defendants") pursuant to Section 12(b) of the Federal Trade Commission Act

The acts and practices of defendants were and are in or affecting commerce, as

defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. The Commission and defendants stipulate and agree to this Order, without trial or

and jurisdiction of any state or federal court to settle and resolve all matters in dispute arising

from defendants' course of conduct related to the sale of dietary supplements up to the date of entry of this Order. By entering this stipulation, defendants do not admit or deny any of the

allegations set forth in the complaint, other than jurisdictional facts. Nothing in this stipulation

10. Each party shall bear its own costs and attorneys' fees.

11. Entry of this Order is in the public interest.

ORDER

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. Unless otherwise specified, "defendants" shall mean:

~~Q. L. S. I. "Q. L. S. I."~~

subsidiaries, and its successors and assigns; and

~~London S. Rubin, individually and in his capacity as a director or officer of~~

The term "including" in this Order shall mean "without limitation."

8. The terms "and" and "or" in this Order shall be construed conjunctively or disjunctively as necessary to make the overall language or sentence inclusive rather than

exclusive.

- F. That such product reduces the risk of age-related neuro-degeneration;
- G. That such product reduces the risk of obesity;
- H. That such product reduces, treats, or prevents inflammation, including

chronic inflammation, or other inflammatory conditions;

- I. That such product mitigates, treats, prevents, or cures any disease or illness; or
- J. About the absolute or comparative health benefits, efficacy, performance, safety,

III.
FDA APPROVED CLAIMS

A. Nothing in this Order shall prohibit defendants from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Nothing in this Order shall prohibit defendants from making any representation

for any product that is specifically permitted in labeling for such product by regulations

promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and

after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably

have done so already, to furnish to the Commission their taxpayer identifying numbers and/or social security numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of defendants' relationship with the government.

F. Proceedings instituted under this Part are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the

~~Commission may initiate under this Order~~

V.
RIGHT TO REOPEN

IT IS FURTHER ORDERED that the Commission's agreement to the monetary judgment

this Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further*, that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including but not limited to contempt proceedings, or any other proceedings that the Commission or the United States may initiate to enforce this Order. For purposes of this Part, and any subsequent proceedings to enforce payment, including but not limited to a non-dischargeability complaint

~~Florida bankruptcy proceeding, defendants consent to contest any of the allegations in the~~

Commission's complaint.

**VI.
ACKNOWLEDGMENT OF RECEIPT OF ORDER**

IT IS FURTHER ORDERED that each defendant, within seven (7) business days after receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn

resellers and distributors who together comprise ninety percent (90%) of Garden of Life's total sales revenue; and

2. By electronic mail in a non-alterable digital form to the remaining resellers and distributors, *provided*, that if this method does not produce a return receipt for a particular reseller or distributor, the notice must be resent to that reseller or distributor by first class mail, return receipt requested;

defendants' resellers or distributors are disseminating any advertisement or promotional material that contains any representation prohibited by this Order.

Notify immediately each such reseller or distributor that defendants will stop

A. Take reasonable steps sufficient to monitor and ensure that all employees and agents engaged in sales, order verification, or other customer service functions comply with Parts I and II of this Order. Such steps shall include adequate monitoring of all advertisements, promotions, sales presentations, and other oral and written communications with customers regarding such products. Defendants, at a minimum, shall:

1. Conduct periodic monitoring of representations concerning any covered product made by persons engaged in sales or other customer service

~~functions, including representations made orally or through electronic~~

~~Conduct periodic monitoring of representations made about any covered~~

primary records documents for inspection and copying access for deposition, and/or provide

entry during normal business hours to any business location in such defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

1. Obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
2. Posing as consumers and suppliers to: Garden of Life, Jordan S. Rubin, either of their employees, or any other entity that either of them manages

X.
COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this

Order may be monitored:

For a period of five (5) years from the date of entry of this Order

1. Jordan S. Rubin shall notify the Commission of the following:
 - a. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of such change;
 - b. Any changes in his employment status (including self-employment) and any change in his ownership in any business entity, within ten (10) days of such change. Such notice shall include the name and address of each business that he is affiliated

statement of the nature of the business; and a statement of his duties and responsibilities in connection with the business or employment: and

limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or

actions subject to this Order, the filing of a bankruptcy petition, or a

change in the corporate name or address; at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the defendant(s) learns less than thirty (30) days prior to the date such action is to take place, the defendant(s) shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. Sixty (60) days after the date of entry of this Order, defendants Garden of Life and Jordan S. Rubin each shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are

2. For all defendants:

a. A copy of each acknowledgment of receipt of this Order obtained

pursuant to Part VI;

b. A statement describing the manner in which the defendants have

complied and are complying with Parts I, II, VI, VII, and VIII of
this Order, including identification of all products that they
advertise or sell, and copies of all their current advertising; and

c. Any other changes required to be reported under Subpart A of this
Part.

c. For the purposes of this Order, defendants shall, unless otherwise directed by the

where any such defendant is a majority owner of such a business or directly or indirectly

~~owns or controls such a business, such defendant(s) and their agents, employees, officers,~~

~~corporations, successors, and assigns, and those persons in active concert or participation with~~

the accuracy of any claim therein or to the efficacy of any covered product, including, but not

limited to, all tests, reports, studies, demonstrations, or other evidence that confirm, contradict, qualify, or call into question the accuracy or efficacy of each such product:

G. Records accurately reflecting the name, address, and telephone number of each manufacturer or laboratory engaged in the development or creation of any testing obtained for the purpose of manufacturing, labeling, advertising, marketing, promoting, offering for sale, selling,

or distributing any covered product;

H. Copies of all contracts concerning the manufacturing, labeling, advertising, marketing, promotion, offering for sale, sale, or distribution of any covered product; and

I. All records and documents necessary to demonstrate full compliance with each provision of the Order, including but not limited to, copies of acknowledgments of receipt of this Order and all reports submitted to the Commission pursuant to this Order.

B. Individual Defendant as Control Person: For any business that defendant Jordan S.

~~Participates in the management of the business in which he has a majority ownership interest, he must~~

deliver a copy of this Order to all principals, officers, directors, and managers of that business.

~~He also must deliver copies of this Order to all employees, agents, and representatives of that~~

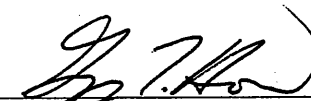
business who engage in conduct related to the subject matter of this Order. For current

~~purposes, delivery shall be within seven (7) days of service of this Order upon the defendant~~

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED:


KAREN M. MUOIO


GARDEN OF LIFE, INC.

XIII.
RETENTION OF JURISDICTION

THE COURT ORDERED 4-14-15 Court shall retain jurisdiction of this matter for

purposes of construction, modification, and enforcement of this Order.

SO STIPULATED:

KAREN M. MUOIO
MICHAEL OSTHEIMER
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue NW

GARDEN OF LIFE, INC.
By: Greg Horn, President and CEO

Mail Drop NJ-3212
Washington, D.C. 20580
Tel.: (202) 326-2491(KM), -2699(MO)
Fax: (202) 326-2250

JORDAN S. RUBIN, individually and as an
officer or director of Garden of Life, Inc.

Email: kmuoio@ftc.gov

MARK B. SEIGER

XIII.
RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED:

KAREN M. MUOIO
MICHAEL OSTHEIMER
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Mail Drop NJ-3212
Washington, D.C. 20580
Tel.: (202) 326-2491(KM), -2699(MO)
Fax: (202) 326-3259
Email: kmuoio@ftc.gov,
mostheimer@ftc.gov

GARDEN OF LIFE, INC.
By: Greg Horn, President and CEO

JORDAN S. RUBIN, individually and as an
officer or director of Garden of Life, Inc.

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Commission

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Piper Rudnick
Attorney for Defendant Garden of Life, Inc.

SEAN M. ELLSWORTH
Ellsworth Law Firm, P.A.
Attorney for Defendant Jordan S. Rubin

SO ORDERED:

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on [date], at [city and state].

[Full name of defendant]

State of _____, City of _____

Subscribed and sworn to before me
this _____ day of _____, 2005.

Notary Public
My Commission Expires:

acknowledging receipt of this Order.

APPENDIX B
GOVERNMENT-ORDERED DISCLOSURE

[on Garden of Life Letterhead]

