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Federal Trade Commission

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,

Hon. (い紹)

Plaintiff

Civil Action No. 00 w 3174

LANE LABS-USA, INC., CARTILAGE CONSULTANTS, INC. I. WILLIAM LANE, AND ANDREW J. LANE, STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AS TO CARTILAGE CONSULTANTS, INC., AND I. WILLIAM LANE

	Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), filed a Complaint	
	for permanent injunction and other relief against Cartilage Consultants. Inc. and I. William Lane.	٠.
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	pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b).	
	Defendants deny the allegations in the Complaint except jurisdictional facts, but are willing to	
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	agree to the entry of the following Stipulated Final Order for Permanent Injunction and	

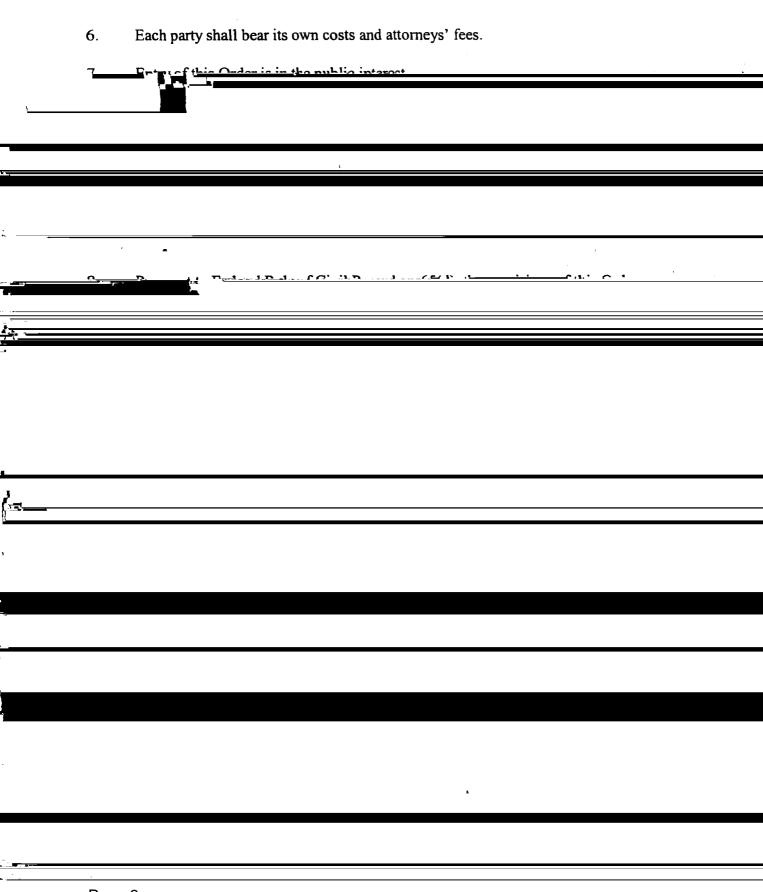
Page 2 FINDINGS

premises, finds:

1. This Court has jurisdiction over the subject matter of this case and jurisdiction

The Commission and defendants have stipulated to the entry of the following Order in

settlement of the Commission's complaint against defendants. The Court, being advised in the

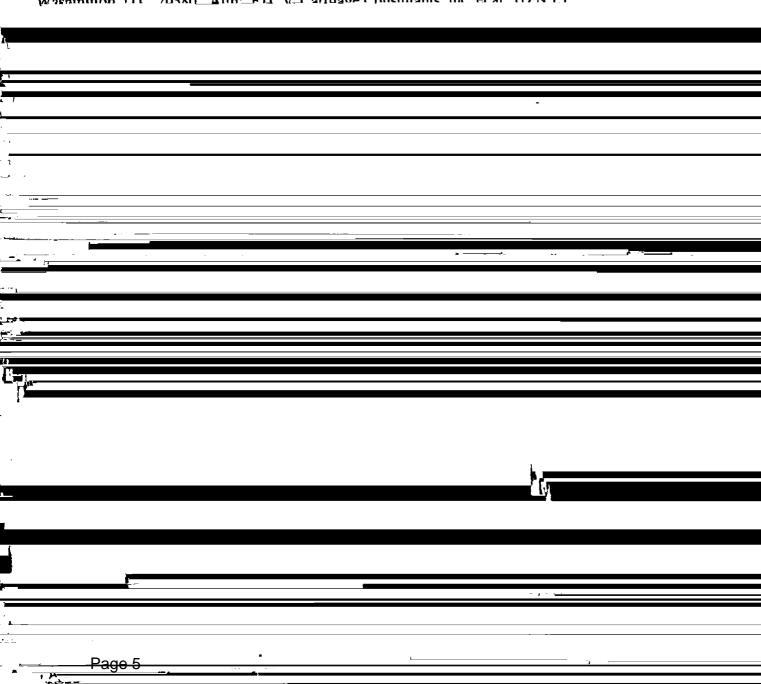


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- 4. "Distributor" shall mean any purchaser or other transferee of any product covered by this Order who acquires such product from defendants, with or without valuable consideration, and who is known by defendants to have sold or offered to sell such product to other sellers or to consumers, including but not limited to individuals, retail stores, or catalogs.
- 5. "Food" and "drug" shall mean "food" and "drug" as defined in Section 15 of the FTC Act, 15 U.S.C. § 55(b)-(c).
- 6. "Glycoalkaloid product" shall mean any product containing glycoalkaloids from any source, chemical or natural, or containing an extract of any plant from the Solanum or nightshade family.
- 7. "Metatag" shall mean any word or words embedded in the source code of an Internet web site that may be used by an Internet search engine in indexing web sites for the purpose of selecting sites in response to an Internet user's search request.
- 8. "Shark cartilage product" shall mean any product containing shark cartilage in any form.

all individuals or entities for whom any defendant performs services as an employee, consultant, or independent contractor.

11. A requirement that any defendant "notify the Commission" shall mean that the defendant shall send the necessary information via first-class mail, costs prepaid, to the Associate Director for Advertising Practices, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Washington D.C. 20580. Attn: FTC v. Cartilage Consultants. Inc. et al. (D.N.I.)



Π.

IT IS FURTHER ORDERED that defendants, directly or through any corporation, subsidiary, division, or other device, and their officers, agents, servants, employees, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of SkinAnswer or any other glycoalkaloid product shall not represent, in any manner, including by means of metatags, expressly or by implication, that such product prevents, treats or cures skin cancer unless, at the time the representation is made, defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

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TT IS ELID THED OF DERED that defendants directly or through any composition.
subsidiary, division, or other device, and their officers, agents, servants, employees and all
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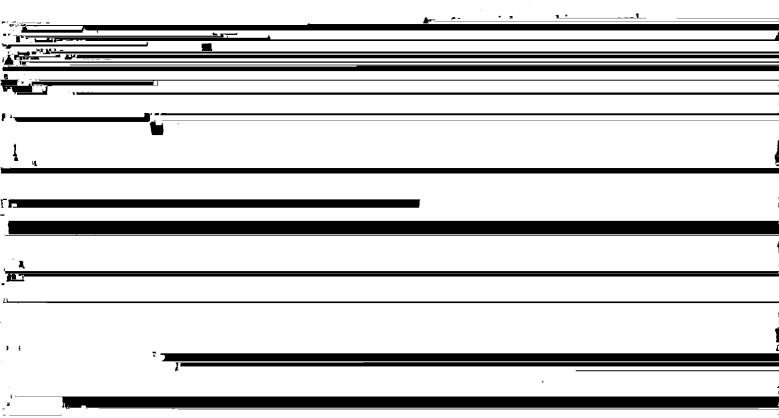
promulgated by the Food and Drug Administration or under any new drug application approved by the Food and Drug Administration. Nothing in this Order shall prohibit defendants from making any representation for any product that is specifically permitted in the labeling for such

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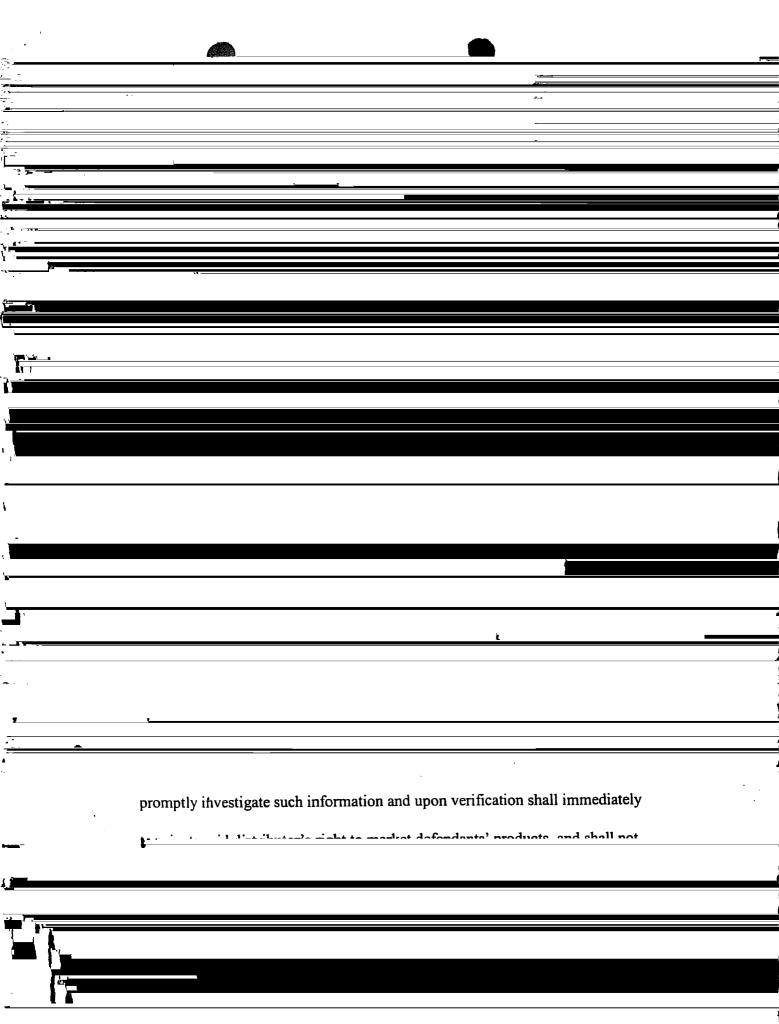
Nutrition Labeling and Education Act of 1990. Nothing in this Order shall prohibit the use of a publication, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any food, dietary supplement, or drug, including an article, a chapter of a book, or an official abstract of a peer-reviewed scientific publication that appears as an Page 8 article and was prepared by the author or editors of the publication, when its use is not false, decentive or misleading pursuant to Sections 5(a) and 12 of the Federal Trade Commission Act

Cartilage Consultants through a diligent search of their records, including but not limited to computer files, sales records, and inventory lists. The mailing shall not include any other documents.

- D. For a period of three (3) years following entry of this Order, defendants shall send by certified mail, return receipt requested, a notice, in the form shown on Appendix A, to each distributor with whom defendants do business after the date of entry of this Order who has not previously received the notice. Such notice shall be sent within one (1) week from the first shipment of defendants' product to said distributor. The mailing shall not include any other documents.
- E. In the event that defendants receive any information that subsequent to receipt of the letter attached to this Order as Appendix A, any distributor is using or



Page 9 statement that contains any representation related to BeneFin or any other shark cartilage product, or SkinAnswer or any other glycoalkaloid product, that is



C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession, custody, or control that contradict, qualify, or call into question the the person assumes such position or responsibilities. Defendants shall create, maintain, and upon request make available to the Commission for inspection and copying records reflecting the delivery of such letter to each such person for a period of five (5) years.

XI.

IT IS FURTHER ORDERED that defendant Cartilage Consultants shall notify the

Commission at least thirty (30) days prior to any change in the corporation that may affect	
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assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the Page 12 corporation about which defendants learn less than thirty (30) days prior to the date such action is to take place, defendants shall notify the Commission as soon as is practicable after obtaining

XIII.

IT IS FURTHER ORDERED that defendants I. William Lane, for a period of five (5)

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- A. The Commission is authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26-37, including but not limited to the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating the compliance of defendants with this Order.
- B. Nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate whether defendants have violated any provision of this Order or Sections 5 or 12 of the FTC Act, 15 U.S.C. §§ 45, 55.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

XVI.

IT IS FURTHER ORDERED that within fifteen (15) business days from the receipt of notice of entry of this Order, defendant I. William Lane, individually and on behalf of defendant Cartilage Consultants, Inc., shall submit to the Commission a truthful swom statement, in the form shown on Appendix C. that shall acknowledge receipt of this Order.

RETENTION OF JURISDICTION

XVII.

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

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Page 15			

APPENDIX A

	FIRST CLASS MAIL [To be printed on defendants' letterhead]		•
	·	[date]	
	Dear [distributor's name]:		
	[Defendant] has settled a civil dispute with the Federal Trade Com involving advertising claims for two products called BeneFin and SkinAns		·
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-	the United States District Court for the New Jersey on Page 16	_ (date).	

APPENDIX B

[To be printed on defendants' letterhead]	[date]
Dear [name]:	
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APPENDIX C

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,

CIVIL ACTION

NO.

LANE LABS-USA, INC. et al.,

v.

Defendants.

AFFIDAVIT OF [DEFENDANT]

Page 18

. I am a citizen of the United States and am

I hereby declare under penalty of perjury under the laws of the United States of America

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