

Tab B

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UNITED STATES

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

FEDERAL TRADE COMMISSION,

Plaintiff

Hon. (WGB)

Civil Action No. 00cv3174

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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.

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

agree to the entry of the following Stipulated Final Order for Permanent Injunction and Settlement of Claims for Monetary Relief ("Order").

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 premises, finds:

FINDINGS

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

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

7. Entry of this Order is in the public interest

C. Each of the foregoing, and any combination of the foregoing.

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.

"MCL" shall mean any benign or malignant tumorous skin lesions, or any

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.)

IV.

IT IS FURTHER ORDERED that defendants, directly or through any corporation,

subsidary, 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

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

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

article and was prepared by the author or editors of the publication, when its use is not false, deceptive 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

promptly investigate such information and upon verification shall immediately

revoke defendant's right to market defendant's products and shall not

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 compliance obligations arising under this Order, including but not limited to a dissolution

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

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) years after the date of entry of this Order, shall notify the Commission of (1) any changes in his

- 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 sworn 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.

~~CONFIDENTIAL~~

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 Commission (FTC) involving advertising claims for two products called BeneFin and SkinAnswer. As a part of the

the United States District Court for the New Jersey on _____ (date).

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Among other things, the settlement with the FTC prohibits us from making

APPENDIX B

[To be printed on defendants' letterhead]

[date]

Dear [name]:

[Defendant] has settled a civil dispute with the Federal Trade Commission (FTC)

APPENDIX C

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,

CIVIL ACTION

NO.

v.

LANE LABS-USA, INC. et al.,

Defendants.

AFFIDAVIT OF [DEFENDANT]

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

that the foregoing is true and correct. Executed on (date) _____ at (city, state) _____

(Name of Defendant)

STATE OF _____

COUNTY OF _____

BEFORE ME this day personally appeared _____, who being first
duly sworn, deposes and says that s/he has read and understands the foregoing statement and that
s/he has executed the same for the purposes contained therein.