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(proposed) **ORDER FOR PRELIMINARY INJUNCTION**

The Court having entered an Order to show Cause Why a Preliminary Injunction Should Not Issue; and having considered the record and being fully advised in the premises, hereby finds:

1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all parties.
2. Venue in the District of New Jersey is proper.
3. There is good cause to believe that Defendants David J. Romeo, Stella Labs, LLC, Nutraceuticals International, LLC, Deborah B. Vickery, V. Craig Payton, and Zoltan Klivinyi have violated Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, and that the Commission is likely to prevail on the merits of this action.
4. There is good cause to believe that immediate and irreparable harm will result from Defendants' violation of Sections 5(a) and 12 of the FTC Act unless Defendants are restrained and enjoined by order of this Court.
5. Weighing the equities and considering the Commission's likelihood of ultimate success on the merits, entry of this preliminary injunction is in the public interest.

6. No security is required of a

3. “Competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
4. “Hoodia” shall mean “*Hoodia gordonii*,” or any substantially similar product.
5. “Weight-loss product” shall mean any product designed, used, or purported to produce weight loss, reduction or elimination of fat, slimming, or caloric deficit in the user of the product, and shall include, but not be limited to, hoodia.
6. “Endorsement” shall mean as defined in 16 C.F.R. § 255.0(b).
7. The term “including” shall mean

punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, facsimile transmission, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, marketing plan, research paper, preliminary drafts or versions of all of the above, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, electronic communication, including e-mail, and computer material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form); and

- b. Any information stored electronically including, but not limited to:
  - i. information stored on any desktop personal computer (“PC”) or workstation, laptop, notebook, or other



salespersons, distributors, corporations, subsidiaries, affiliates, successors, assigns, and those persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service, facsimile, or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of hoodia, or any other weight-loss product, in or affecting commerce, are hereby enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name or endorsement, any representation that hoodia, or any other weight-loss product:

- A. causes weight loss;
- B. causes users to reduce daily caloric intake;
- C. reduces or curbs appetite; or
- D. treats obesity;

unless the representation is true, not misleading, and, at the time it is made, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

## II.

### MISREPRESENTATION OF TESTS OR STUDIES

**IT IS FURTHER ORDERED** that Defendants, directly or through any corporation, partnership, limited liability company, subsidiary, trade name, or other





sale, sale, or distribution of hoodia, or any other weight-loss product, are hereby enjoined from making, or assisting others in making, directly or by implication, including through the use of a product name or endorsement, any misrepresentation:

A. Regarding the identity or authenticity of hoodia, or any other weight-loss product; or

B. Regarding whe000 TD(t)Tj3.8400 0.200 0.03000 TD(s)Tj 1.00000 0.0000 0.A9.T

otherwise disposing of, in any manner, directly or indirectly, any documents or records that

**VI.**

**CORRESPONDENCE WITH PLAINTIFF**

For the purposes of this Order, all service on and correspondence to the FTC shall sent via U.S. Express Mail or Federal Express and be addressed to: Victor F. DeFrancis, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room NJ-3122, Washington, DC 20580. Telephone: (202) 326-3495; Facsimile: (202) 326-3259.

**VII.**

**SERVICE OF THIS ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be served by facsimile transmission, personal or overnight delivery, or U.S. Express Mail, by agents and employees of the FTC or any state or federal law enforcement agency or by private process server, on Defendants or any other person or entity that may be subject to any provision of this Order.

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**VIII.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2009

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UNITED STATES DISTRICT JUDGE