UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

FEDERAL TRADE COMMISSION, Plaintiff, v. A.S. RESEARCH, LLC, also d/b/a ASR and APPLIED SCIENTIFIC RESEARCH LABS, a limited liability company, STEPHEN J. YOUNG, individually and as an owner and officer of A.S. RESEARCH, LLC, and MICHAEL K. LEDEBOER, individually and as an owner and officer of A.S. RESEARCH, LLC, Defendants.	Civil Action No. 1:19-cv-03423 [PROPOSED] STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), filed its Complaint for Permanent Injunction and Other Equitable Relief ("Complaint"), for a permanent injunction and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The Commission and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment ("Order") to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint charges that Defendants participated in deceptive and unfair acts or

practices and false advertising in violation of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52, in connection with the advertising, labeling, promotion, offering for sale, sale, or distribution of Synovia.

3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Orde

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form and dosage, and with the same route of administration (e.g., orally, sublingually), as the Covered Product; *provided that* the Covered Product may contain additional ingredients if reliable scientific evidence generally accepted by experts in the field indicates that the amount and combination of additional ingredients is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.

H. "**Food**

D. Reverses narrowing of joint space caused by arthritis;

E. Boosts declining levels of synovial fluid within joints;

F. Alleviates the loss of strength caused by tennis elbow;

G. Reduces pain-causing acidity to any extent; or

H. Cures, mitigates, or treats any disease,

unless the representation is non-misleading, and, at the time of making such representation, they possess and rely upon competent and reliable scientific evidence substantiating that the representation is true. For purposes of this Section, competent and reliable scientific evidence shall consist of human clinical testing of the Covered Product, or of an Essentially Equivalent Product, that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scie doum

II. PROHIBITED REPRESENTATIONS:

or of an Essentially Equivalent Product, when such experts would generally require such human clinical testing to substantiate that the representation is true. In addition, when such tests or studies are human clinical tests or studies, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as set forth in the Section entitled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission. Persons covered by this Section have the burden of proving that a product satisfies the definition of Essentially Equivalent Product.

III. PROHIBITED MISREPRESENTATIONS REGARDING TESTS, STUDIES, OTHER RESEARCH, OR INGREDIENTS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product, are permanently restrained and enjoined from misrepresenting, in any manner, expressly or by implication, including through the use of any product name, endorsement, depiction, or illustration:

A. That any Covered Product is clinically proven to reduce arthritis pain, pain-causing acidity, or restore or repair damaged joint cartilage;

B. That the performance or benefits of any product are scientifically or clinically proven or otherwise established;

C. The existence, contents, validity, results, conclusions, or interpretations of any test, study, or research; or

D. The ingredients in the product, including the amount of any such ingredients.

IV. PROHIBITED REPRESENTATIONS REGARDING CONSUMERS OR OTHER ENDORSERS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any goods or services, are permanently restrained and enjoined from making, or assisting others in making, expressly or by implication, any misrepresentation concerning or relating to any consumer or other endorser, including:

A. Whether such endorser had any experience due to use of an advertised product or service, and the characteristics of such endorser; and

B. About the status of any such person providing a review of the product or service, including a misrepresentation that the endorser or reviewer is an independent user or ordinary consumer of the product or service.

V. DISCLOSURE OF MATERIAL CONNECTIONS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any

VII. PROHIBITED PRICING CLAIMS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any Covered Product, are permanently restrained and enjoined from misrepresenting that paying a premium will allow a consumer to purchase a product with one or more ingredients not available to consumers who do not pay the premium.

VIII. FDA-APPROVED CLAIMS

IT IS FURTHER ORDERED that nothing in this Order prohibits Defendants, Defendants' officers, agents, employees, and attorneys, or all other persons in active concert or participation with any of them from:

A. For any Drug, making a representation that is approved in labeling for such Drug under any tentative final or final monograph promulgated by the Food and Drug Administration, or under any new Drug application approved by the Food and Drug Administration; and

B. For any product, making a representation that is specifically authorized for use in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990 or permitted under Sections 303-304 of the Food and Drug Administration Modernization Act of 1997.

IX. PRESERVATION OF RECORDS RELATING TO COMPETENT AND RELIABLE HUMAN CLINICAL TESTS OR STUDIES

IT IS FURTHER ORDERED that, with regard to any human clinical test or study ("test") upon which Defendants rely to substantiate any claim covered by this Order, Defendants shall secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, including:

A. All protocols and protocol amendments, reports, articles, write-ups, or other accounts of the results of the test, and drafts of such documents reviewed by the test sponsor or any other person not employed by the research entity;

B. All documents referring or relating to recruitment; randomization; instructions, including oral instructions, to participants; and participant compliance;

C. Documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;

D. All documents referring or relating to any statistical analysis of any test data, including any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and

E. All documents referring or relating to the sponsorship of the test, including all communications and contracts between any sponsor and the test's researchers.

Provided, however, the preceding preservation requirement does not apply to a reliably

reported test, unless the test was conducted, controlled, or sponsored, in whole or in part, by: (1) any Defendant; (2) any Defendant's officers, agents, representatives, or employees; (3) any other person or entity in active concert or participation with any Defendant; (4) any person or entity affiliated with or acting on behalf of any Defendant; (5) any supplier of any ingredient contained in the product at issue to any of the foregoing or to the product's manufacturer; or (6) the supplier or manufacturer of such product.

For purposes of this Section, "reliably reported test" means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

For any test conducted, controlled, or sponsored, in whole or in part, by Defendants, Defendants must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures must be documented in writing and must contain administrative, technical, and physical safeguards appropriate to Corporate Defendant's size and complexity, the nature and scope of Defendants' activities, and the sensitivity of the personal information collected from or about the participants.

X. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

A. Judgment in the amount of $4,177,164 is entered in favor of the Commission against Individual Defendants and Corporate Defendant, jointly and severally, as equitable monetary relief.

B. Defendants are ordered to pay to the Commission $821,000, which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment, the remainder of the judgment is suspended, subject to the Subsections below.

C. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. the Financial Statement of Corporate Defendant A.S. Research, LLC, signed by Michael K. Ledeboer, Managing Partner, on June 12, 2019, including the attachments;

2. the Financial Statement of Individual Defendant Michael K. Ledeboer, signed on June 6, 2019, including the attachments;

3. the Financial Statement of Individual Defendant Stephen J. Young, signed on June 6, 2019, including the attachments;

4. the additional documentation submitted by letter from Defendants' counsel Albert S. Watkins, LC, of Kodner Watkins, LC, to Commission counsel

Janet M. Evans dated July 9, 2019, attaching a document entitled "ConsolidatedNet"; and

5. the letter from Defendants' counsel Albert S. Watkins, LC, of Kodner Watkins, LC, to Commission counsel Janet M. Evans dated July 17, 2019.

D. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

XI. ADDITIONAL MONETARY PROVISIONS

submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

E. All money paid to the Commission pursuant to this Order may be deposited into a

submitted to the Commission.

2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, partic

C. Each Defendant must submit to the Commission notice of the filing of any

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Records of all consumer complaints concerning the subject matter of the order and all refund requests, whether received directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

E. A copy of each unique advertisement or other marketing material.

XVI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures

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SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION

/s/ Elizabeth K. Nach Date: December 5, 2019
JANET M. EVANS
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FOR DEFENDANTS

/s/ Albert S. Watkins Date: August 29, 2019
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COUNSEL for A.S. Research, LLC, Stephen J. Young, and Michael K. Ledeboer

DEFENDANTS: A.S. Research, LLC, Stephen J. Young, and Michael K. Ledeboer

A.S. RESEARCH, LLC
By:

/s/ Stephen J. Young Date: August 28, 2019
STEPHEN J. YOUNG, individually, and as an
owner and officer of A.S. Research, LLC

/s/ Michael K. Ledeboer Date: August 28, 2019
MICHAEL K. LEDEBOER, individually, and
as an owner and officer of A.S. Research, LLC