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10. Defendants Roca Labs, Inc. and Don Juravin have filed petitions for relief under Chapter 7 of the Bankruptcy Code in which the FTC is listed as a creditor. See In re Roca Labs Inc., Case No. 8:17-bk-09732-CPM (Bankr. M.D. Fla.) and In re Don Karl Juravin, Case No. 6:18-bk-06821 (Bankr. M.D. Fla.).

11. The FTC's prosecution of this action, including entry of a money judgment and the enforcement of a judgment (other than a money judgment) obtained in this action are actions to enforce the FTC's police or regulatory power. As a result, if the Roca Labs, Inc. and Don Juravin bankruptcies are pending as of the date of entry of this Order, entry of this Order is excepted from the automatic stay pursuant to 11 U.S.C. §362(b)(4).

#### DEFINITIONS

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

1. "Clearly and Conspicuously" means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

A. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.

B. A visual disclosure, by its size, contrast, location, the length of



Nutraceutical USA, Inc., Must Cure Obesity, Co., Juravin, Incorporated, and/or Zero Calorie Labs, Inc., their successors and assigns, as well as any subsidiaries, and any fictitious business entities or business names created or used by these entities or any of them.

4. “Covered Communication” means a written, oral, or pictorial review, performance assessment, or other similar analysis of goods or services, including conduct related to the goods or services.

5. “Covered Product” means any Dietary Supplement, Food, or Drug, including Roca Labs “Formula,” Bariatric Surgery Alternative formula or dose, “Anti-Cravings,” Gastric

ingested, and is not represented to be used as a conventional Food or as a sole item of a meal or the diet.

8. "Drug" means:

A. Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

B. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

C. Articles (other than Food) intended to affect the structure or any function of the body of humans or other animals; and

D. Articles intended for use as a component of any article specified in clause A, B, or C above; but does not include devices or their components, parts, or accessories.

9. "Endorsement" (as defined in 16 C.F.R. § 255) means any advertising message (including verbal statements, demonstrations, or depictions of the name,

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B. imposes a penalty or fee against a Person who is a party to the



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 scientific evidence, to substantiate that the representation is true. Such testing must be: (1) randomized, double-blind, and placebo-controlled; and (2) conducted by researchers qualified by training and experience to conduct such testing. In addition, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as described in the Section of this Order entitled "Preservation of Records Relating to Cse to7on of

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representations covered under Section I of this Order, about the health benefits, performance, or efficacy of any Covered Product, unless the representation is non-misleading, and, at the time of making such representation, they possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or

III. PROHIBITED REPRESENTATIONS:  
TESTS, STUDIES, OR OTHER RESEARCH

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, marketing, promotion, offering for sale, sale, or distribution of any good or service, are hereby PERMANENTLY RESTRAINED AND ENJOINED from misrepresenting, or assisting others in misrepresenting, directly or by implication, including through the use of any good or service name, Endorsement, depiction, or illustration:

- A. That the performance or benefits of such good or service are scientifically or clinically proven or otherwise established, including that the efficacy of any Covered Product for achieving weight loss is scientifically proven or that any Covered Product is scientifically proven to have a ninety-percent success rate in forcing users to eat half their usual Food intake and cause substantial weight loss; or
- B. The existence, contents, validity, results, conclusions, or interpretations of any test, study, or other research>>BDC 3

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.

V. PROHIBITIONS AND LIMITS ON USE OF CERTAIN  
CONTRACT PROVISIONS AND ON CERTAIN REPRESENTATIONS  
AND THREATS ABOUT CUSTOMER COMMUNICATIONS

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, marketing, promotion, offering for sale, sale, or distribution of any good or service, are hereby PERMANENTLY RESTRAINED AND ENJOINED from:

- A. Offering to any prospective customer a contract, or offering to any customer a renewal contract, that includes a Review-Limiting Contract Term;
- B. Requiring that a customer accept a Review-Limiting Contract Term as a condition of a Defendant's fulfillment of its obligations under a customer contract;
- C. Representing, including through any notice, warning, threat to enforce, or attempt to enforce, to any purchaser of any good or service — regardless of when purchased — that any contract:
  - 1. Prohibits purchasers from speaking or publishing truthful or

non-defamatory negative comments or reviews about any Defendant, or the Defendant's goods, services, agents, or employees; or

2. Imposes any precondition on purchasers speaking or publishing any comments or reviews about any Defendant, or the Defendant's goods, services, agents, or employees;

D. Representing that any purchaser of any Covered Product could be liable for defamation or other legal liability for speaking or publishing any statement that the Covered Product was ineffective, including that it did not cause or assist in causing them to lose or maintain weight, to reduce their caloric or Food intake, to reduce their stomach capacity, or to reduce their appetite;

E. Representing that any purchaser of any good or service owes or has agreed to pay the difference between any purported "discount price," "subsidized price," or other price the purchaser was actually charged at the time of purchase of a good or service, and any higher or "full price" for a good or service, if the purchaser speaks or publishes negative comments or reviews about any Defendant, or the Defendant's goods, services, agents, or employees; or

"subsidized price," or other price the purchaser was actually charged at the time of purchase of a good or service, and any higher or "full price" for a good or service, if the purchaser speaks or publishes negative comments or reviews about any Defendant, or the Defendant's goods, services, agents, or employees; or



enforce any contractual provision representing that it limits or prohibits the Person from speaking or publishing negative or disparaging comments or reviews about any Defendant, the Defendant's goods, services, agents, or employee.

#### VI. DECEPTIVE FORMAT IN ADVERTISING

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 good or service, including any Covered Product, are hereby PERMANENTLY RESTRAINED AND ENJOINED from misrepresenting that any website (including Gastricbypass.me) or other publication is an independent, objective resource for research or other scientific information, or other information relating to such good or service.

#### VII. PROHIBITIONS CONCERNING ENDORSEMENTS

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

Endorsement of any such good or service represents the opinions, findings, beliefs, or experience of the Endorser;

B. Misrepresenting, in any manner, expressly or by implication, that any Person is an expert with respect to the Endorsement message provided by that person, or that an Endorser of any such good or service is a health professional; and

C. Failing to disclose, Clearly and Conspicuously, and in Close Proximity to the representation, a Material Connection, when one exists, between the Endorser and any Defendant.

#### VIII. PROHIBITED REPRESENTATIONS: INFORMATION PRIVACY 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 good or service, including any Covered Product, are hereby PERMANENTLY RESTRAINED AND ENJOINED from misrepresenting the extent to which they maintain the confidentiality of consumer information.

#### IX. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of twenty-five million, two-hundred forty-six thousand dollars (\$25,246,000) is entered in favor of the FTC against Corporate Defendants and Individual Defendant Don Juravin, jointly and aHA3ch

severally, as equitable monetary relief, including consumer redress and disgorgement of ill-gotten gains.

B. In partial satisfaction of the judgment against Corporate Defendants, the following frozen assets, including assets held by third parties in the name

D. Asset Transfer Defendants' Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which they previously submitted to the FTC, 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 FTC pursuant to this Order may be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the FTC or its representatives may take pursuant to this Subsection.

#### X. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the asset freeze entered by this Court on September 13, 2016, (Dkt. 90), and extended on November 9, 2018, (Dkt. 245), is modified to permit the payments and transfers identified in the Mt 0.eqSepto



XII. 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, ngeBei94 (i)6

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 Defendants' size and complexity, the nature and scope of Defendants' activities, and the sensitivity of the personal information collected from or about the participants.







Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 calendar days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of Corporate Defendants, and any entity that either Individual Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for

D. Any submission to the FTC required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a FTC representative in writing, all submissions to the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Roca Labs, Inc., Matter No. X150061.

#### XV. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendants and Individual Defendants, for any business in which such Individual Defendant, either, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing the names, titles, and addresses of all employees as an employee or other person who is employed by the defendant.



by this Order:

A.

D. Upon written request from a representative of the FTC, any consumer reporting agency must furnish consumer reports concerning Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

XVII. RETENTION OF JURISDICTION

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

DONE and ORDERED at Tampa, Florida this 4th day of January, 2019.



MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

Copies furnished to:  
Counsel of Record  
Any Unrepresented Party