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15 **UNITED STATES DISTRICT COURT**

16 **CENTRAL DISTRICT OF CALIFORNIA**

17 **FEDERAL TRADE COMMISSION,**

18 Plaintiff,

19 v.

20 **MARC CHING**, individually and also  
21 doing business as **WHOLE LEAF**  
22 **ORGANICS,**

23 Defendant.

) Case No.: 2:20-cv-3775

)

)

) **[PROPOSED] STIPULATED**

) **PRELIMINARY INJUNCTION**

) **PURSUANT TO SECTIONS 13(a)**

) **AND (b) OF THE FEDERAL**

) **TRADE COMMISSION ACT**

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1 5. No security is required of any agency of the United States for issuance of a  
2 preliminary injunction. Fed. R. Civ. P. 65(c).

3 DEFINITIONS

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

5 A. "Covered Product" means Thrive, ~~CBD~~, CBD-RX, or CBD-Max or any  
6 other Drug, Food, or Dietary Supplement.

7 B. "Dietary Supplement" means:

8 1. any product labeled as a dietary supplement or otherwise represented as a  
9 dietary supplement; or

10 2. any pill, tablet, capsule, powder, softgel, gelcap, liquid, or other similar  
11 form containing one or more ingredients that are a vitamin, mineral, herb  
12 or other botanical, amino acid, probiotic, or other dietary substance for  
13 use by humans to supplement the diet by increasing the total dietary  
14 intake, or a concentrate, metabolite, ~~compound~~, extract, or combination  
15 of any ingredient described above, that is intended to be ingested, and is  
16 not represented to be used as a conventional food or as a sole item of a  
17 meal or the diet.

18 C. "Drug" means: (a) articles recognized in the official United States  
19 Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or  
20 official National Formulary, or any supplement to any of them; (b) articles  
21 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of  
22 disease in humans or other animals; (c) articles (other than Food) intended to affect  
23 the structure or any function of the body of humans or other animals; and (d)  
24 articles intended for use as a component of any article specified in (a), (b), or (c);  
25 but does not include devices or their components, parts, or accessories.

26 D. "Essentially equivalent product" means a product that contains the identical  
27 ingredients, except for inactive ingredients (e.g., inactive binders, colors, fillers,  
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1 relates; (2) that are generally accepted by such experts to yield accurate and  
2 reliable results; and (3) that are randomized, double-blind, and placebo-controlled  
3 human clinical testing of the Covered Product, or of an Essentially Equivalent  
4 Product, when such experts would generally require such human clinical testing to  
5 substantiate that the representation is true. In addition, when such tests or studies  
6 are human clinical tests or studies, all underlying or supporting data and documents  
7 generally accepted by experts in the field as relevant to an assessment of such  
8 testing as described in the Provision of this Order titled Preservation of Records  
9 Relating to Competent and Reliable Human Clinical Tests or Studies must be  
10 available for inspection and production to the Commission. Defendant have  
11 the burden of proving that a product satisfies the definition of an Essentially  
12 Equivalent Product.

13 III. PROHIBITED MISREPRESENTATIONS REGARDING TESTS,  
14 STUDIES, OR OTHER RESEARCH

15 IT IS FURTHER ORDERED that Defendant and Defendant's agents,  
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1 IV. FDA APPROVED CLAIMS

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

5 A. For any Drug, making a representation that is approved in labeling for  
6 such Drug under any tentative final or final monograph promulgated by the Food  
7 And Drug Administration (3 (inis)88.5 (on 20g A)o8c0d Drll ou(ve)3.6d la teuodla s ine (

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1 obtained in connection with any activity that pertains to the subject matter of this  
2 Order.

3         Provided, however, that Defendant may disclose such identifying  
4 information to a law enforcement agency, its attorneys as required for  
5 defense in this or the pending administrative action, as required by any law,  
6 regulation, or court order, or in any filings, pleadings or discovery in this action in  
7 the manner required by the Federal Rules of Civil Procedure and by any protective  
8 order in the case.

9                                 VI.    PRESERVATION OF RECORDS

10         IT IS FURTHER ORDERED that Defendant, Defendant agents,  
11 employees, and attorneys, and all other persons in active concert or participation  
12 with any of them, who receive actual notice of this Order, whether acting directly  
13 or indirectly, shall preserve all documents and information responsive to this Order, whether

1 person (including any financial institution) that may have possession, custody or  
2 control of any document of Defendant, or that may be subject to any provision of  
3 this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For  
4 purposes of this Section, service upon any branch, subsidiary, affiliate or office of  
5 any entity shall effect service upon the entire entity.

6 VIII. CORRESPONDENCE AND SERVICE ON PLAINTIFF

7 IT IS FURTHER ORDERED that, for the purpose of this Order, all  
8 correspondence and service of pleadings on Plaintiff shall be via email to:

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10 TAWANA E. DAVIS  
11 tdavis@ftc.gov; (202) 326-2755  
12 AMBER LEE  
13 alee5@ftc.gov(202) 3262764  
14 Federal Trade Commission  
15 600 Pennsylvania Avenue, NW  
16 Washington, DC 20580  
17 Fax: (202) 326-3259

18 JOHN D. JACOBS  
19 jjacobs@ftc.gov(310) 8244300  
20 Federal Trade Commission  
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X. RETENTION OF JURISDICTION

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

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, at \_\_\_\_\_ .m.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

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