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CENTRAL DISTRICT OF CALIFORNIA
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14 FEDERAL TRADE COMMISSION

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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MAR 30
CALIF.

17 FEDERAL TRADE COMMISSION,
18 Plaintiff,

Hon. Dickran Tevrizian
CV 03-3700-DT (PJWx)

19 v.
20 A. GLENN BRASWELL,
21 JOE MANAGEMENT CO.,
22 G.B. DATA SYSTEMS, INC.,
23 GERO VITA INTERNATIONAL, INC.,
24 THERACEUTICALS, INC., HALSEY
25 HOLDINGS LLC., HEALTH QUEST
26 PUBLICATIONS, INC., G.B. DATA
27 SYSTEMS, INC. (CANADA), RON
TEPPER, RONALD M. LAWRENCE, M.D.
28 PH.D., HANS KUGLER, PH.D., AND
CHASE REVEL A/K/A MARCUS
WELBOURNE, JOHN WELLBURN,
JAMES WELLBURN, MARTIN
WELLNER, JOHN MEGGENHORN, and
JOHN BURKE,

~~Proposed~~
STIPULATED FINAL
ORDER FOR
PERMANENT
INJUNCTION AND
SETTLEMENT OF
CLAIMS FOR
MONETARY RELIEF
RE: RON TEPPER

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Defendants.

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1 Plaintiff, the Federal Trade Commission ("FTC" or "Commission") filed a
2 Complaint and Second Corrected First Amended Complaint for permanent
3 injunction and other relief against A. Glenn Braswell, JOL Management Co., G.B.
4 Data Systems, Inc., Gero Vita International, Inc., Therapeutics, Inc., Halsey
5 Holdings LLC, Health Quest Publications, Inc., G.B. Data Systems, Inc. (Canada),
6 Ron Tepper, Ronald M. Lawrence, M.D., Ph.D., Hans Kugler, Ph.D., and Chase
7 Revel, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC
8 Act"), 15 U.S.C. § 53(b). Defendant Ron Tepper denies the allegations in the
9 Complaint, except jurisdictional facts, and disputes the legal basis for the relief
10 requested, but is willing to agree to the entry of the following Stipulated Final
11 Order for Permanent Injunction and Settlement of Claims for Monetary Relief
12 ("Order"), without adjudication of any issues of fact or law and without Defendant
13 Tepper admitting liability for any of the matters alleged in the Complaint.

14 The Commission and Defendant Tepper have stipulated to the entry of the
15 following Order in settlement of the Commission's Complaint against Defendant
16 Tepper. The Court, being advised in the premises, finds:

17 **FINDINGS**

- 18 1. This Court has jurisdiction over the subject matter of this case and
19 jurisdiction over all parties. Venue in the Central District of
20 California is proper.
- 21 2. The Complaint states a claim upon which relief can be granted and
22 the Answer states multiple legal defenses. The Commission has the
23 authority to seek the relief it has requested.
- 24 3. The activities of Defendant Tepper are in or affecting commerce, as
25 defined in 15 U.S.C. § 44.
- 26 4. The parties waive all rights to seek judicial review or otherwise
27 challenge or contest the validity of this Order. Defendant also waives
28 any claims that he may have held under the Equal Access to Justice

1 Act, 28 U.S.C. § 2412, concerning the prosecution of this action to
2 the date of this Order.

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

4 6. Entry of this Order is in the public interest.

5 7. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of
6 this Order are binding upon Defendant Tepper, his agents, servants,
7 employees and all other persons or entities in active concert or
8 participation with him, who receive actual notice of this Order by
9 personal service or otherwise.

10 8. This Order resolves all claims that arose prior to the date of entry of
11 this Order against Defendant Tepper, both individually and in his
12 capacity as an officer or director of JOL Management Co., Gero Vita
13 International, Inc., Therapeutics, Inc., or Health Quest Publications,
14 Inc., or their affiliated entities, with respect to any allegation that such
15 Defendant violated the Federal Trade Commission Act and the
16 regulations promulgated thereunder. The Order does not resolve any
17 claims against A. Glenn Braswell, Chase Revel, or any other
18 Defendant in this action.

19 9. This is a final order with respect to Defendant Tepper.

20 10. Defendant Tepper's stipulation is for settlement purposes only; does
21 not constitute an admission of facts, other than jurisdictional facts, or
22 violations of law as alleged in the Second Corrected First Amended
23 Complaint and in fact Defendant Tepper denies same; and it may not
24 be used against Defendant Tepper in any other proceeding, except in
25 such proceedings as may be necessary to enforce the provisions of
26 this Order.

27 11. This Order reflects a negotiated agreement among the parties.
28

DEFINITIONS

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

1. Unless otherwise specified, "Defendant" shall mean Ron Tepper, individually and in his capacity as an officer or director of JOL Management Co., Gero Vita International, Inc., Therapeutics, Inc., or Health Quest Publications, Inc., or their affiliated entities.
2. "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 has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant field to yield accurate and reliable results.
3. "Food" and "drug" shall mean "food" and "drug" as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
4. "Covered product" shall mean any food, drug, or dietary supplement, whether sold individually or as part of a program.
5. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
6. "Endorsement" shall mean as defined in 16 C.F.R. § 255.0(b).
7. "Clear(ly) and prominent(ly)" shall mean as follows:
 - a. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media including the Internet and online services), the disclosure shall be presented in either the audio or video portions of the advertisement, except that the Warning disclosure required by Paragraph V shall be presented simultaneously in both the audio and video portions of the advertisement. *Provided, however,* that in any advertisement presented solely through

1 video or audio means, the disclosure may be made through the
2 same means in which the advertisement is presented. The
3 audio disclosure shall be delivered in a volume and cadence
4 sufficient for an ordinary consumer to hear and comprehend it.
5 The video disclosure shall be of a size and shade, and shall
6 appear on the screen for a duration, sufficient for an ordinary
7 consumer to read and comprehend it. In addition to the
8 foregoing, in interactive media the disclosure shall also be
9 unavoidable and shall be presented prior to the consumer
10 incurring any financial obligation.

- 11 b. In a print advertisement, promotional material, or instructional
12 manual, the disclosure shall be in a type size and location
13 sufficiently noticeable for an ordinary consumer to read and
14 comprehend it, in print that contrasts with the background in
15 which it appears.

16 Nothing contrary to, inconsistent with, or in mitigation of the disclosure
17 shall be used in any advertisement or on any label.

18 **CONDUCT PROHIBITIONS AND REQUIRED DISCLOSURES**

19 **Representations Regarding Respiratory Products**

20 **I.**

21 **IT IS HEREBY ORDERED** that Defendant, directly or through any
22 corporation, partnership, subsidiary, division, trade name, or other device, and his
23 agents, representatives, employees, and all persons or entities in active concert or
24 participation with him who receive actual notice of this Order, by personal service
25 or otherwise, in connection with the manufacturing, labeling, advertising,
26 promotion, offering for sale, sale, or distribution of Lung Support Formula, or any
27 other respiratory product, are hereby permanently restrained and enjoined from
28 making any representation, in any manner, expressly or by implication, including

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1 through the use of trade names or endorsements, that such product:

- 2 A. Cures or treats lung diseases or respiratory problems, including
3 allergies, asthma, colds, influenza, bronchitis, sinus problems, chest
4 congestion, emphysema, smoking damage, or shortness of breath;
- 5 B. Reverses existing lung damage in persons with emphysema or
6 significantly improves their breathing;
- 7 C. Prevents breathing problems for persons who do not have existing
8 respiratory problems; or
- 9 D. Is clinically proven to eliminate or cure allergies related to
10 respiratory problems, asthma, colds, influenza, bronchitis, sinus
11 problems, chest congestion, emphysema, smoking damage, or
12 shortness of breath;

13 unless the representation is true, non-misleading, and, at the time it is made,
14 Defendant possesses and relies upon competent and reliable scientific evidence
15 that substantiates the representation.

16 **Representations Regarding Diabetes and Blood Sugar Products**

17 **II.**

18 **IT IS FURTHER ORDERED** that Defendant, directly or through any
19 corporation, partnership, subsidiary, division, trade name, or other device, and his
20 agents, representatives, employees, and all persons or entities in active concert or
21 participation with him who receive actual notice of this Order, by personal service
22 or otherwise, in connection with the manufacturing, labeling, advertising,
23 promotion, offering for sale, sale, or distribution of AntiBetic Pancreas Tonic or
24 any other diabetes or blood sugar product, are hereby permanently restrained and
25 enjoined from making any representation, in any manner, expressly or by
26 implication, including through the use of trade names or endorsements, that such
27
28

1 product:

- 2 A. Can cure Type I or Type II diabetes;
- 3 B. Is an effective or superior alternative to insulin or other diabetes
- 4 medications for the treatment of Type I or Type II diabetes;
- 5 C. Lowers blood sugar levels in persons with diabetes or regenerates or
- 6 repairs the pancreatic beta cells that produce insulin; or
- 7 D. Is clinically proven to lower blood sugar levels in persons with
- 8 diabetes or to regenerate or repair the pancreatic beta cells that
- 9 produce insulin;

10 unless the representation is true, non-misleading, and, at the time it is made,
 11 Defendant possesses and relies upon competent and reliable scientific evidence
 12 that substantiates the representation.

13 **Representations Regarding Anti-Aging Products**

14 **III.**

15 **IT IS FURTHER ORDERED** that Defendant, directly or through any
 16 corporation, partnership, subsidiary, division, trade name, or other device, and his
 17 agents, representatives, employees, and all persons or entities in active concert or
 18 participation with him who receive actual notice of this Order, by personal service
 19 or otherwise, in connection with the manufacturing, labeling, advertising,
 20 promotion, offering for sale, sale, or distribution of Gero Vita G.H.3,
 21 Therapeutics GH3 Romanian Youth Formula, or any other anti-aging product,
 22 are hereby permanently restrained and enjoined from making any representation in
 23 any manner, expressly or by implication, including through the use of trade names
 24 or endorsements, that such product:

- 25 A. Prevents or reverses age-related memory loss, dementia, or
- 26 Alzheimer's disease;
- 27 B. Enables persons to live longer; or
- 28 C. Is clinically proven to prevent or reverse age-related memory loss,

1 dementia, or Alzheimer's disease;
2 unless the representation is true, non-misleading, and, at the time it is made,
3 Defendant possesses and relies upon competent and reliable scientific evidence
4 that substantiates the representation.

5 **Representations Regarding Weight Loss Products**

6 **IV.**

7 **IT IS FURTHER ORDERED** that Defendant, directly or through any
8 corporation, partnership, subsidiary, division, trade name, or other device, and his
9 agents, representatives, employees, and all persons or entities in active concert or
10 participation with him who receive actual notice of this Order, by personal service
11 or otherwise, in connection with the manufacturing, labeling, advertising,
12 promotion, offering for sale, sale, or distribution of ChitoPlex or any other weight
13 loss product, are hereby permanently restrained and enjoined from making any
14 representation, in any manner, expressly or by implication, including through the
15 use of trade names or endorsements, that any such product:

- 16 A. Enables consumers to lose weight, maintain weight, or prevent weight
17 gain;
18 B. Enables consumers to reverse obesity; or
19 C. Is proven to cause weight loss;

20 unless the representation is true, non-misleading, and, at the time it is made,
21 Defendant possesses and relies upon competent and reliable scientific evidence
22 that substantiates the representation.

23 **Representations Regarding Sexual Enhancement Products**

24 **V.**

25 **IT IS FURTHER ORDERED** that Defendant, directly or through any
26 corporation, partnership, subsidiary, division, trade name, or other device, and his
27 agents, representatives, employees, and all persons or entities in active concert or
28 participation with him who receive actual notice of this Order, by personal service

1 or otherwise, in connection with the manufacturing, labeling, advertising,
2 promotion, offering for sale, sale, or distribution of Testex, or any other sexual
3 enhancement product, are hereby permanently restrained and enjoined from
4 making any representation, in any manner, expressly or by implication, including
5 through the use of trade names or endorsements, that such product:

6 A. Is effective in treating impotence or erectile dysfunction; or

7 B. Has no harmful side effects;

8 unless the representation is true, non-misleading, and, at the time it is made,
9 Defendant possesses and relies upon competent and reliable scientific evidence
10 that substantiates the representation.

11 *Provided further that* in any advertisement, promotional material or product
12 label for any male sexual enhancement product containing yohimbine, yohimbe
13 bark, or yohimbe bark extract, that contains any representation about the efficacy,
14 benefits, performance, safety or side effects of such product, Defendant, his
15 agents, representatives, employees, and all persons or entities in active concert or
16 participation with him who receive actual notice of this Order, by personal service
17 or otherwise, shall make clearly and prominently, and in close proximity to such
18 representation, the following disclosure:

19
20 **WARNING:** This product can raise blood pressure and interfere with other
21 drugs you may be taking. Talk to your doctor before taking this product.

22
23 On a product label, the disclosure shall be in a type size and location sufficiently
24 noticeable for an ordinary consumer to read and comprehend it and in print that
25 contrasts with the background against which it appears. *Provided*, if a disclosure
26 on a bottle label or package label is made in a location other than the principal
27 display panel, the bottle label or package label shall: (i) include the statement “**See**
28 **important warning on [insert disclosure location]**” in a type size and location

1 or endorsements, that such product is effective in the cure, treatment, mitigation,
2 or prevention of any disease unless the claim is true, non-misleading, and, at the
3 time it is made, Defendant possesses and relies upon competent and reliable
4 scientific evidence that substantiates the representation.

5 **Representations Regarding Tests or Studies**

6 **VIII.**

7 **IT IS FURTHER ORDERED** that Defendant, directly or through any
8 corporation, partnership, subsidiary, division, trade name, or other device, and his
9 agents, servants, employees and all persons or entities in active concert or
10 participation with him who receive actual notice of this Order, by personal service
11 or otherwise, in connection with the manufacturing, labeling, advertising,
12 promotion, offering for sale, sale, or distribution of any covered product, are
13 hereby permanently restrained and enjoined from misrepresenting, in any manner,
14 expressly or by implication, the existence, contents, validity, results, conclusions,
15 or interpretations of any test or study.

16 **Advertising Formats**

17 **IX.**

18 **IT IS FURTHER ORDERED** that Defendant, directly or through any
19 corporation, partnership, subsidiary, division, trade name, or other device, and his
20 agents, servants, employees and all persons or entities in active concert or
21 participation with him who receive actual notice of this Order, by personal service
22 or otherwise, in connection with the manufacturing, labeling, advertising,
23 promotion, offering for sale, sale, or distribution of any covered product, are
24 hereby permanently restrained and enjoined from misrepresenting, in any manner,
25 expressly or by implication, that:

- 26 A. The product has been independently reviewed or evaluated; or
27 B. Any advertisement for the product is not a paid advertisement.

1 **Use of Endorsements**

2 **X.**

3 **IT IS FURTHER ORDERED** that Defendant, directly or through any
4 corporation, partnership, subsidiary, division, trade name, or other device, and his
5 agents, servants, employees and all persons or entities in active concert or
6 participation with him who receive actual notice of this Order, by personal service
7 or otherwise, in connection with the manufacturing, labeling, advertising,
8 promotion, offering for sale, sale, or distribution of any covered product, are
9 hereby permanently restrained and enjoined from representing, in any manner,
10 expressly or by implication, that such product has been endorsed by any person,
11 organization or group that is an expert with respect to the endorsement message
12 unless:

- 13 A. The endorser is an existing person, organization, or group whose
14 qualifications give it the expertise that the endorser is represented as
15 having with respect to the endorsement;
- 16 B. The endorsement is substantiated by an objective and valid evaluation
17 or test using procedures generally accepted by experts in the relevant
18 science or profession to yield accurate and reliable results; and
- 19 C. The endorser has a reasonable basis for the endorsement.

20 For purposes of a criminal contempt proceeding, it shall be a defense hereunder
21 that Defendant neither knew nor had reason to know of the inadequacy of the
22 substantiation claimed by the endorser for the representation.

23 **XI.**

24 **IT IS FURTHER ORDERED** that Defendant, directly or through any
25 corporation, partnership, subsidiary, division, trade name, or other device, and his
26 agents, servants, employees and all persons or entities in active concert or
27 participation with him who receive actual notice of this Order, by personal service
28 or otherwise, in connection with the manufacturing, labeling, advertising,

1 promotion, offering for sale, sale, or distribution of any covered product, are
2 hereby permanently restrained and enjoined from:

- 3 A. Misrepresenting that any endorser of the product is not affiliated with
4 or is independent from Defendant; and
- 5 B. Failing to disclose, clearly and prominently, any material connection,
6 where one exists, between Defendant and any endorser of the product.
7 For purposes of this Paragraph, a "material connection" shall mean
8 any relationship that may materially affect the weight or credibility of
9 the endorsement, including, but not limited to: where the endorser
10 has any direct or indirect ownership interest in any defendant
11 corporation or its subsidiaries or affiliates, or receives a royalty or
12 percentage of sales of the endorsed product; or the endorser is an
13 employee, agent, representative, officer, director, or shareholder of
14 any defendant corporation or its subsidiaries or affiliates.

15 **FDA-APPROVED CLAIMS**

16 **XII.**

17 **IT IS FURTHER ORDERED** that:

- 18 A. Nothing in this Order shall prohibit Defendant from making any
19 representation for any drug that is permitted in labeling for such drug
20 under any tentative final or final standard promulgated by the Food
21 and Drug Administration, or under any new drug application
22 approved by the Food and Drug Administration; and
- 23 B. Nothing in this Order shall prohibit Defendant from making any
24 representation for any product that is specifically permitted in
25 labeling for such product by regulations promulgated under the laws
26 of the United States of America.
- 27
28

1 **MONETARY JUDGMENT AND CONSUMER REDRESS**

2 **Judgment**

3 **XIII.**

4 **IT IS FURTHER ORDERED** that judgment in the amount of Forty
5 Thousand Dollars (\$40,000.00) is hereby entered against the Defendant, which
6 shall be paid as follows:

- 7 A. Forty Thousand Dollars (\$40,000.00) has been placed into a trust
8 account at the law firm of Defendant's Counsel, Beck, De Corso,
9 Daly, Kreindler & Harris, which shall be held by Defendant's counsel
10 in such trust account and transferred within three days after entry of
11 this Order by wire transfer into an account to be designated by the
12 Commission in accord with directions provided by the Commission.
- 13 B. All funds paid pursuant to this Order shall be deposited into an
14 account administered by the Commission or its agent to be used for
15 equitable relief, including but not limited to consumer redress and any
16 attendant expenses for the administration of such equitable relief. In
17 the event that direct redress to consumers is wholly or partially
18 impracticable or funds remain after redress is completed, the
19 Commission may apply any remaining funds for such other equitable
20 relief (including consumer information remedies) as it determines to
21 be reasonably related to the Defendant's practices alleged in the
22 complaint. Any funds not used for such equitable relief shall be
23 deposited to the United States Treasury as disgorgement. Defendant
24 shall have no right to challenge the Commission's choice of remedies
25 under this Paragraph. Defendant shall have no right to contest the
26 manner of distribution chosen by the Commission. No portion of any
27 payments under the judgment herein shall be deemed a payment of
28 any fine, penalty, or punitive assessment.

- 1 C. In accordance with 31 U.S.C. § 7701, Defendant has furnished the
2 Commission his taxpayer identifying number and/or social security
3 number, which may be used for purposes of collecting and reporting
4 on any delinquent amount arising out of Defendant's relationship
5 with the government.
- 6 D. Defendant relinquishes all dominion, control, and title to the funds
7 paid into the account established pursuant to this Order, and all legal
8 and equitable title to the funds shall vest in the Treasurer of the
9 United States unless and until such funds are disbursed to consumers.
10 Defendant shall make no claim to or demand for the return of the
11 funds, directly or indirectly, through counsel or otherwise; and in the
12 event of bankruptcy of the Defendant, Defendant acknowledges that
13 the funds are not part of the debtor's estate, nor does the estate have
14 any claim or interest therein.
- 15 E. Proceedings instituted under this Paragraph are in addition to, and not
16 in lieu of, any other civil or criminal remedies that may be provided
17 by law, including any other proceedings the Commission may initiate
18 to enforce this Order.

19 **Right to Reopen**

20 **XIV.**

21 **IT IS FURTHER ORDERED** that:

22 A. The Commission's agreement to this Order is expressly premised
23 upon Defendant's financial condition as represented by Defendant
24 Tepper in submissions made to the Commission, to wit:

- 25 1. the Financial Statement of Individual Defendant with
26 attachments, signed and dated Feb 4, 2005;

27 This Financial Statement of Individual Defendant and the attached
28 supporting documents contain material information upon which the

1 Commission relied in negotiating and agreeing to the terms of this
2 Order.

3 B. If, upon motion by the Commission, a Court should determine that the
4 Defendant made a material misrepresentation or omitted material
5 information concerning his financial condition, then the Court shall
6 enter judgment against the Defendant to the Commission, in favor of
7 the Commission, in the amount of Five Hundred Thousand Dollars
8 (\$500,000), which amount shall become immediately due and payable
9 by Defendant, and interest computed at the rate prescribed under 28
10 U.S.C. § 1961, as amended, shall immediately begin to accrue on the
11 unpaid balance; *provided, however, that* in all other respects this
12 Final Judgment shall remain in full force and effect unless otherwise
13 ordered by the Court; and, *provided further, that* proceedings
14 instituted under this provision would be in addition to, and not in lieu
15 of, any other civil or criminal remedies as may be provided by law,
16 including but not limited to contempt proceedings, or any other
17 proceedings that the Commission or the United States may initiate to
18 enforce this Final Judgment. For purposes of this Paragraph, and any
19 subsequent proceedings to enforce payment, including but not limited
20 to a non-dischargeability complaint filed in a bankruptcy proceeding,
21 Defendant agrees not to contest any of the allegations in the
22 Commission's Complaint.

23 **COOPERATION WITH COMMISSION**

24 **XV.**

25 **IT IS FURTHER ORDERED** that Defendant Tepper must reasonably and
26 in good faith cooperate with the Commission in connection with this action or any
27 subsequent investigations related to or associated with the transactions or
28 occurrences that are the subject of the Commission's Complaint. Defendant

1 acknowledges, understands, and agrees that such cooperation shall include, but not
2 be limited to, the following:

- 3 A. Appearing for interviews as may reasonably be requested by the
4 Commission;
- 5 B. Responding to all reasonable inquiries of the Commission;
- 6 C. Providing all documents, records, and other tangible evidence
7 reasonably requested by the Commission;
- 8 D. Providing truthful declarations, affidavits, certifications, and written
9 testimony that may be reasonably requested by the Commission; and
- 10 E. Appearing and providing oral testimony at any trial, deposition, or
11 other proceeding. Defendant agrees to accept service by overnight
12 delivery of any subpoena to appear and provide testimony.

13 The foregoing cooperation shall be upon reasonable written notice by the
14 Commission. Defendant's failure to cooperate as required herein constitutes a
15 material breach of the settlement between the parties and a violation of this Order.
16 If, upon motion by the Commission after written notice and a five (5) calendar day
17 opportunity to cure, the Court finds that Defendant has failed to cooperate
18 reasonably and in good faith with the Commission as provided for in this
19 Paragraph, the Court shall enter judgment against the Defendant to the
20 Commission, in favor of the Commission, in the amount of Five Hundred
21 Thousand Dollars (\$500,000), which amount shall become immediately due and
22 payable by Defendant, and interest computed at the rate prescribed under 28
23 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid
24 balance; *provided, however, that* in all other respects this Final Judgment shall
25 remain in full force and effect unless otherwise ordered by the Court; and,
26 *provided further, that* proceedings instituted under this provision would be in
27 addition to, and not in lieu of, any other civil or criminal remedies as may be
28 provided by law, including but not limited to contempt proceedings, or any other

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1 proceedings that the Commission or the United States may initiate to enforce this
2 Final Judgment. For purposes of this Paragraph, and any subsequent proceedings
3 to enforce payment, including but not limited to a non-dischargeability complaint
4 filed in a bankruptcy proceeding, Defendant agrees not to contest any of the
5 allegations in the Commission's Complaint.

6 **COMPLIANCE REQUIREMENTS**

7 **Compliance Reporting**

8 **XVI.**

9 **IT IS FURTHER ORDERED** that, in order that compliance with the
10 provisions of this Order may be monitored:

- 11 A. For a period of five (5) years from the date of entry of this Order,
- 12 1. Defendant Tepper shall notify the Commission of the
- 13 following:
- 14 a. Any changes in residence(s), mailing address(es), and
- 15 telephone number(s) of the Defendant, within ten (10)
- 16 days of the date of such change; and
- 17 b. Any changes in Defendant's employment status
- 18 (including self-employment) or ownership in any
- 19 business entity engaged in the sale of a covered product
- 20 within ten (10) days of such change. Such notice shall
- 21 include the name and address of each such business
- 22 engaged in the sale of a covered product that the
- 23 Defendant is affiliated with, employed by, creates or
- 24 forms, or performs services for; a statement of the nature
- 25 of the business; and a statement of the Defendant's
- 26 duties and responsibilities in connection with the
- 27 business or employment;
- 28

1 2. Defendant Tepper shall notify the Commission of any proposed
2 change in corporate structure of the corporate defendants or
3 any business entity that Defendant directly or indirectly
4 controls, or has an ownership interest in, that may affect
5 compliance obligations arising under this Order, including but
6 not limited to a dissolution, assignment, sale, merger, or other
7 action that would result in the emergence of a successor
8 corporation; the creation or dissolution of a subsidiary, parent,
9 or affiliate that engages in any acts or practices subject to this
10 Order; the filing of a bankruptcy petition; or a change in the
11 corporate name or address, at least thirty (30) days prior to such
12 change, *provided that*, with respect to any proposed change in
13 the corporation about which a Defendant learns less than thirty
14 (30) days prior to the date such action is to take place, the
15 Defendant shall notify the Commission as soon as is
16 practicable after obtaining such knowledge.

17 B. Sixty (60) days after the date of entry of this Order, Defendant Tepper
18 shall provide a written report to the Commission, sworn to under
19 penalty of perjury, setting forth in detail the manner and form in
20 which he has complied and is complying with this Order. This report
21 shall include, but not be limited to:

- 22 1. The then-current residence addresses, mailing addresses, and
23 telephone numbers of the Defendant;
- 24 2. The then-current employment and business addresses and
25 telephone numbers of the Defendant, a description of the
26 business activities of each such employer or business, and the
27 title and responsibilities of the Defendant, for each such
28 employer or business;

- 1 3. The full name, address, telephone number, and state of
2 incorporation of each corporation for which the Defendant is an
3 officer or director or in which he holds more than five (5)
4 percent of the shares of the corporation;
5 4. A copy of each acknowledgment of receipt of this Order
6 obtained by Defendant pursuant to Paragraph XIX; and
7 5. Any other changes required to be reported under Subparagraph
8 A of this Section.

9 For purposes of this Paragraph, "employment" includes the performance of
10 services as an employee, consultant, or independent contractor; and "employers"
11 include any individual or entity for whom Defendant Tepper performs services as
12 an employee, consultant, or independent contractor.

- 13 C. For purposes of this Order, Defendant shall, unless otherwise directed
14 by the Commission's authorized representatives, mail all written
15 notifications to the Commission to:

16 Associate Director for Advertising Practices
17 Federal Trade Commission
18 600 Pennsylvania Avenue, N.W.,
19 Washington, D.C. 20580

20 Re: FTC v. Braswell et al., No. CV 03-3700-DT (PJWx)

- 21 D. For purposes of the compliance reporting required by this Paragraph,
22 the Commission is authorized to communicate in writing directly with
23 Defendant, with a copy to Defendant's counsel of record herein, or
24 such substitute counsel as Defendant may advise Plaintiff. Defendant
25 shall be given the opportunity to have counsel present for any oral
26 communications.

1 **Compliance Monitoring**

2 **XVII.**

3 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and
4 investigating compliance with any provision of this Order,

5 A. Within ten (10) days, or such longer period as may be reasonable but
6 not to exceed thirty (30) days, of receipt of written notice from a
7 representative of the Commission, Defendant Tepper shall submit
8 additional written reports, sworn to under penalty of perjury; produce
9 documents for inspection and copying; appear for deposition; and/or
10 provide entry during normal business hours to any business location
11 in Defendant's possession or direct or indirect control to inspect the
12 business operation;

13 B. In addition, the Commission is authorized to monitor compliance with
14 this Order by all other lawful means, including but not limited to the
15 following:

- 16 1. obtaining discovery from any person, without further leave of
17 court, using the procedures prescribed by Fed. R. Civ. P. 30,
18 31, 33, 34, 36, and 45;
- 19 2. posing as consumers or suppliers to JOL Management Co.,
20 G.B. Data Systems, Inc., Gero Vita International, Inc.,
21 Therapeutics, Inc., Health Quest Publications, Inc., G.B. Data
22 Systems, Inc. (Canada), and Tepper, employees of JOL
23 Management Co., G.B. Data Systems, Inc., Gero Vita
24 International, Inc., Therapeutics, Inc., Health Quest
25 Publications, Inc., G.B. Data Systems, Inc. (Canada), and
26 Tepper, or any other entity managed or controlled in whole or
27 in part by JOL Management Co., G.B. Data Systems, Inc., Gero
28 Vita International, Inc., Therapeutics, Inc., Health Quest

1 Publications, Inc., G.B. Data Systems, Inc. (Canada), and
2 Tepper without the necessity of identification or prior notice;
3 and

- 4 C. Defendant Tepper shall permit representatives of the Commission to
5 interview any employer, consultant, independent contractor,
6 representative, agent, or employee who has agreed to such an
7 interview, relating in any way to any conduct subject to this Order.
8 The person interviewed may have counsel present.

9 *Provided, however,* that nothing in this Order shall limit the Commission's
10 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act,
11 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things,
12 testimony, or information relevant to unfair or deceptive acts or practices in or
13 affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

14 **RECORD KEEPING PROVISIONS**

15 **XVIII.**

16 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the
17 date of entry of this Order, Defendant Tepper and his agents, employees, officers,
18 corporations, successors, and assigns, and those persons in active concert or
19 participation with him who receive actual notice of this Order by personal service
20 or otherwise, are hereby restrained and enjoined from failing to continue to create
21 and retain the following records:

- 22 A. Accounting records that reflect the cost of any goods or services sold,
23 revenues generated, and disbursement of such revenues;
- 24 B. Personnel records accurately reflecting: the name, address, and
25 telephone number of each person employed in any capacity by such
26 business, including as an independent contractor; that person's job
27 title or position; the date upon which the person commenced work;
28 and the date and reason for the person's termination, if applicable;

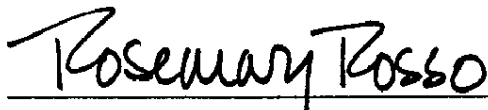
- 1 C. Customer files containing the names, addresses, telephone numbers,
2 dollar amounts paid, quantity of items or services purchased, and
3 description of items or services purchased, to the extent such
4 information is obtained in the ordinary course of business;
- 5 D. Complaints and refund requests (whether received directly, indirectly,
6 or though any third party) and all records showing any responses to
7 those complaints or requests;
- 8 E. Copies of all advertisements, promotional materials, sales scripts,
9 training materials, or other marketing materials utilized in the
10 advertising, marketing, promotion, offering for sale, distribution or
11 sale of any covered product;
- 12 F. All materials that were relied upon in making any representations
13 contained in the materials identified in Subparagraph E above,
14 including all documents evidencing or referring to the accuracy of
15 any claim therein or to the efficacy of any covered product, including,
16 but not limited to, all tests, reports, studies, demonstrations, as well as
17 all evidence in Defendant's possession that confirms, contradicts,
18 qualifies, or calls into question the accuracy of such claims regarding
19 the efficacy of such covered product;
- 20 G. Records accurately reflecting the name, address, and telephone
21 number of each manufacturer or laboratory engaged in the
22 development or creation of any testing obtained for the purpose of
23 advertising, marketing, promoting, offering for sale, distributing, or
24 selling any product; and
- 25 H. All records and documents necessary to demonstrate full compliance
26 with each provision of this Order, including but not limited to, copies
27 of acknowledgments of receipt of this Order and all reports submitted
28 to the FTC pursuant to this Order.

1 **COURT'S RETENTION OF JURISDICTION**

2 **XXI.**

3 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of
4 this matter for purposes of construction, modification, and enforcement of this
5 Order.

6
7 SO STIPULATED:

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9 



10 DAVID P. FRANKEL
11 ROSEMARY ROSSO
12 MAMIE KRESSES
13 THEODORE H. HOPPOCK
14 CHRISTINE J. LEE
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Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

Attorney for Defendant Ron Tepper

29 SO ORDERED:

30 DATED: MAR 30 2005

DICKRAN TEVRIZIAN

Hon. Dickran Tevrizian
UNITED STATES DISTRICT JUDGE

FILED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 29, 2005, I caused true and correct copies of the [Proposed] **STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND SETTLEMENT OF CLAIMS FOR MONETARY RELIEF RE: RON TEPPER** to be served as follows:

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