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CLERK, U.S. DISTRICT COURT
JAN 19 2006
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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24 UNITED STATES DISTRICT COURT
25 CENTRAL DISTRICT OF CALIFORNIA
26 WESTERN DIVISION

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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

27 FEDERAL TRADE COMMISSION,

28 Plaintiff,

v.

29 A. GLENN BRASWELL, *et al.*

30 Defendants.

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

SETTLEMENT AGREEMENT
AND [Proposed] FINAL
ORDER AS TO CHASE
REVEL

DOCKETED ON CM
JAN 23 2006
BY [Signature] 005

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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 a/k/a Marcus Welbourne, John Welburn, James Welburn, Martin Wellner,
8 John Megenhorn, and John Burke, pursuant to Section 13(b) of the Federal Trade
9 Commission Act ("FTC Act"), 15 U.S.C. § 53(b). Defendant Chase Revel denies
10 the allegations in the Complaint, except jurisdictional facts, and disputes the legal
11 basis for the relief requested, but is willing to agree to the entry of the following
12 Settlement Agreement and Final Order, without adjudication of any issues of fact
13 or law and without Defendant Revel admitting liability for any of the matters
14 alleged in the Complaint.

15 The Commission and Defendant Revel have stipulated to the entry of the
16 following Settlement Agreement and Final Order in settlement of the
17 Commission's Complaint against Defendant Revel. The Court, being advised in
18 the premises, finds:

19 **FINDINGS**

- 20 1. This Court has jurisdiction over the subject matter of this case and
21 jurisdiction over the parties in this case. Venue in the Central District
22 of California is proper.
- 23 2. The Complaint states a claim upon which relief can be granted. The
24 Commission has the authority to seek the relief it has requested.
- 25 3. The activities of Defendant Revel are or were in or affecting
26 commerce, as defined in 15 U.S.C. § 44.
- 27 4. The parties waive all rights to seek judicial review or otherwise
28 challenge or contest the validity of this Settlement Agreement and

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1 Final Order. Defendant Revel also waives any claims that he may
2 have held under the Equal Access to Justice Act, 28 U.S.C. § 2412,
3 concerning the prosecution of this action to the date of this Settlement
4 Agreement and Final Order.

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

6 6. Entry of this Settlement Agreement and Final Order is in the public
7 interest.

8 7. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of
9 this Settlement Agreement and Final Order are binding upon
10 Defendant Revel, and any agents, servants, employees and all other
11 persons or entities in active concert or participation with him, who
12 receive actual notice of this Settlement Agreement and Final Order by
13 personal service or otherwise.

14 8. This Settlement Agreement and Final Order resolves all claims that
15 arose prior to the date of entry of this Settlement Agreement and Final
16 Order against Defendant Revel with respect to any allegation that
17 such Defendant violated the Federal Trade Commission Act and the
18 regulations promulgated thereunder with respect to the advertising of
19 dietary supplements marketed by the Defendants in this action. The
20 Settlement Agreement and Final Order does not resolve any claims
21 against any other Defendant in this action.

22 9. This is a final Settlement Agreement and Final Order with respect to
23 Defendant Revel.

24 10. Defendant's stipulation is for settlement purposes only; does not
25 constitute an admission of facts (other than jurisdictional facts) or
26 violations of law as alleged in the Second Corrected First Amended
27 Complaint and in fact Defendant Revel denies same; and may not be
28 used against Defendant Revel in any other proceeding, except in such

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1 proceedings as may be necessary to enforce the provisions of this
2 Settlement Agreement and Final Order.

3 11. This Settlement Agreement and Final Order was drafted jointly by
4 Plaintiff and Defendant Revel and reflects the negotiated agreement
5 among the parties.

6 12. The paragraphs of this Settlement Agreement and Final Order shall be
7 read as the necessary requirements for compliance and not
8 alternatives for compliance and no paragraph serves to modify
9 another paragraph unless expressly so stated.

10 **DEFINITIONS**

11 For purposes of this Settlement Agreement and Final Order, the following
12 definitions shall apply:

- 13 1. Unless otherwise specified, "Defendant" shall mean Chase Revel
14 a/k/a John Leonard Burke. For purposes of this Settlement
15 Agreement and Final Order, "Defendant" shall also mean Marcus
16 Welbourne, John Welburn, James Welburn, Martin Wellner, and John
17 Megenhorn to the extent Chase Revel a/k/a John Leonard Burke used
18 such names as pen names in advertisements he drafted for any former
19 defendant in this action.
- 20 2. "Competent and reliable scientific evidence" shall mean tests,
21 analyses, research, studies, or other evidence based on the expertise
22 of professionals in the relevant area, that has been conducted and
23 evaluated in an objective manner by persons qualified to do so, using
24 procedures generally accepted in the relevant field to yield accurate
25 and reliable results.
- 26 3. "Food," "drug," and "device" shall mean "food," "drug," and
27 "device" as defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
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- 1 4. "Covered product or service" shall mean any food, drug, device, or
2 dietary supplement, whether sold individually or as part of a program,
3 or any health-related service.
- 4 5. "Commerce" shall mean "commerce" as defined in Section 4 of the
5 Federal Trade Commission Act, 15 U.S.C. § 44.
- 6 6. "Endorsement" shall mean "endorsement" as defined in 16 C.F.R. §
7 255.0(b).
- 8 7. "Clear(ly) and prominent(ly)" shall mean as follows:
 - 9 a. In an advertisement communicated through an electronic
10 medium (such as television, video, radio, and interactive media
11 including the Internet and online services), the disclosure shall
12 be presented in either the audio or video portions of the
13 advertisement. Audio disclosures shall be delivered in a
14 volume and cadence sufficient for an ordinary consumer to hear
15 and comprehend it. Video disclosures shall be of a size and
16 shade, and shall appear on the screen for a duration, sufficient
17 for an ordinary consumer to read and comprehend it. In
18 addition to the foregoing, in interactive media the disclosure
19 shall also be unavoidable and shall be presented prior to the
20 consumer incurring any financial obligation.
 - 21 b. In a print advertisement, promotional material, or instructional
22 manual, the disclosure shall be in a type size and location
23 sufficiently noticeable for an ordinary consumer to read and
24 comprehend it, in print that contrasts with the background in
25 which it appears.

26 Nothing contrary to, inconsistent with, or in mitigation of the disclosure
27 shall be used in any advertisement or on any label.
28

CONDUCT PROHIBITIONS AND REQUIRED DISCLOSURES

Representations Regarding Respiratory Products

I.

IT IS HEREBY ORDERED that Defendant Revel, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and his agents, representatives, employees, and all persons or entities in active concert or participation with him who receive actual notice of this Settlement Agreement and Final Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Lung Support Formula, or any other respiratory product, are hereby permanently restrained and enjoined from making any representation, in any manner, expressly or by implication, including through the use of trade names or endorsements, that such product:

- A. Cures or treats lung diseases or respiratory problems, including allergies, asthma, colds, influenza, bronchitis, sinus problems, chest congestion, emphysema, smoking damage, or shortness of breath;
 - B. Reverses existing lung damage in persons with emphysema or significantly improves their breathing;
 - C. Prevents breathing problems for persons who do not have existing respiratory problems; or
 - D. Is clinically proven to eliminate or cure allergies related to respiratory problems, asthma, colds, influenza, bronchitis, sinus problems, chest congestion, emphysema, smoking damage, or shortness of breath;
- unless the representation is true; non-misleading, and, at the time it is made, Defendant possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

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Representations Regarding Diabetes and Blood Sugar Products

II.

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

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

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

Representations Regarding Anti-Aging Products

III.

IT IS FURTHER ORDERED that Defendant Revel, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, and his agents, representatives, employees, and all persons or entities in active concert

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1 or participation with him who receive actual notice of this Settlement Agreement
2 and Final Order, by personal service or otherwise, in connection with the
3 manufacturing, labeling, advertising, promotion, offering for sale, sale, or
4 distribution of Gero Vita G.H.3 or any other anti-aging product, are hereby
5 permanently restrained and enjoined from making any representation in any
6 manner, expressly or by implication, including through the use of trade names or
7 endorsements, that such product :

- 8 A. Prevents or reverses age-related memory loss, dementia, or
9 Alzheimer's disease;
- 10 B. Enables persons to live longer; or
- 11 C. Is clinically proven to prevent or reverse age-related memory loss,
12 dementia, or Alzheimer's disease;

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 Covered Products and Services**

17 **IV.**

18 **IT IS FURTHER ORDERED** that Defendant Revel, directly or through
19 any corporation, partnership, subsidiary, division, trade name, or other device, and
20 his agents, servants, employees, and all persons or entities in active concert or
21 participation with him who receive actual notice of this Settlement Agreement and
22 Final Order, by personal service or otherwise, in connection with the
23 manufacturing, labeling, advertising, promotion, offering for sale, sale, or
24 distribution of any covered product or service are hereby permanently restrained
25 and enjoined from misrepresenting that any product or treatment has been tested
26 by scientists, researchers, or other medical professionals and found to be effective.

V.

1
2 **IT IS FURTHER ORDERED** that Defendant Revel, directly or through
3 any corporation, partnership, subsidiary, division, trade name, or other device, and
4 his agents, servants, employees and all persons or entities in active concert or
5 participation with him who receive actual notice of this Settlement Agreement and
6 Final Order, by personal service or otherwise, in connection with the
7 manufacturing, labeling, advertising, promotion, offering for sale, sale, or
8 distribution of any covered product or service are hereby permanently restrained
9 and enjoined from making any representation in any manner, expressly or by
10 implication, including through the use of trade names or endorsements, about the
11 absolute or comparative health benefits, efficacy, safety, or side effects of such
12 product unless the claim is true, non-misleading, and, at the time it is made,
13 Defendant possesses and relies upon competent and reliable scientific evidence
14 that substantiates the representation.

15 **Representations Regarding Tests or Studies**

16 VI.

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

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1 message unless:

- 2 A. The endorser is an existing person, organization, or group whose
- 3 qualifications give it the expertise that the endorser is represented as
- 4 having with respect to the endorsement; and
- 5 B. The endorsement is substantiated by an objective and valid evaluation
- 6 or test using procedures generally accepted by experts in the relevant
- 7 science or profession to yield accurate and reliable results.

8 **IX.**

9 **IT IS FURTHER ORDERED** that Defendant Revel, directly or through
10 any corporation, partnership, subsidiary, division, trade name, or other device, and
11 his agents, servants, employees and all persons or entities in active concert or
12 participation with him who receive actual notice of this Settlement Agreement and
13 Final Order, by personal service or otherwise, in connection with the
14 manufacturing, labeling, advertising, promotion, offering for sale, sale, or
15 distribution of any covered product or service, are hereby permanently restrained
16 and enjoined from:

- 17 A. Misrepresenting that any endorser of the product or service is not
- 18 affiliated with or is independent from the individual or entity
- 19 manufacturing, labeling, advertising, promoting, offering for sale,
- 20 selling, or distributing the product or service; and
- 21 B. Failing to disclose, clearly and prominently, any material connection,
- 22 where one exists, between the individual or entity manufacturing,
- 23 labeling, advertising, promoting, offering for sale, selling, or
- 24 distributing the product and any endorser of the product or service.
- 25 For purposes of this Paragraph, a "material connection" shall mean
- 26 any relationship that may materially affect the weight or credibility of
- 27 the endorsement, including, but not limited to: where the endorser
- 28 has any direct or indirect ownership interest in any business

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1 Defendant owns or controls or its subsidiaries or affiliates, or receives
2 a royalty or percentage of sales of the endorsed product; or the
3 endorser is an employee, agent, representative, officer, director, or
4 shareholder of any business Defendant owns or controls or its
5 subsidiaries or affiliates.

6 **BOND REQUIREMENT FOR CHASE REVEL**

7 **X.**

8 **IT IS FURTHER ORDERED** that:

9 A. Defendant Revel, whether directly, or in concert with others, or
10 through any business, entity, corporation, subsidiary, division or other
11 device, in which he has a direct or indirect ownership interest or
12 controlling interest, or for which he holds a managerial post or serves
13 as an officer, director, consultant, or employee is hereby permanently
14 enjoined and restrained from participating or assisting others in any
15 manner whatsoever, directly or in concert with others, individually or
16 through any business entity or device, in the advertising, promotion,
17 offering for sale, sale, or distribution of any food, drug, dietary
18 supplement, device, or any health-related service for human use or
19 consumption ("Bond Covered Activity") unless he first obtains a
20 surety bond in the principal sum of One Million Dollars (\$1,000,000).

21 1. For purposes of this Paragraph, "assisting others" shall mean
22 knowingly providing any of the following services to any
23 person or entity:

- 24 a. performing customer service functions for any person or
25 entity, including, but not limited to, outbound or inbound
26 telemarketing, upselling, cross-selling, handling
27 customer complaints, refund processing, web design and
28 marketing, continuity program development or

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1 implementation, or designing or preparing or assisting in
2 the preparation of product labeling or packaging;

3 b. formulating or providing, or arranging for the
4 formulation or provision of, any sales script or any other
5 advertising or marketing material for any person or
6 entity;

7 c. leasing, renting, selling, or servicing customer lists, or

8 d. performing advertising or marketing services or
9 consulting services of any kind for any person or entity.

10 B. The terms and conditions of the bond required by Subparagraph A
11 hereof shall be as follows:

12 1. The bond shall be conditioned upon compliance with the
13 provisions of this Settlement Agreement and Final Order and
14 with Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a)
15 and 52;

16 2. The bond shall be continuous and remain in force and effect as
17 long as Defendant Revel engages in any Bond Covered
18 Activity, and for at least three (3) years after he has ceased to
19 engage in any Bond Covered Activity.

20 3. The bond shall cite this Settlement Agreement and Final Order
21 as the basis of the bond, and shall provide surety thereunder to
22 consumers against financial loss resulting from any violation of
23 the provisions of this Settlement Agreement and Final Order, or
24 Sections 5(a) or 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52;

25 4. The bond required by this section shall be issued by a surety
26 company that:

27 a. Is admitted to do business in each of the states in which
28 Defendant Revel conducts business; and

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1 b. Holds a Federal Certificate of Authority As Acceptable
2 Surety on Federal Bond and Reinsuring;

3 5. The bond shall be in favor of the Commission for the benefit of
4 any consumer or consumers injured as a result of any violation
5 of the provisions of this Settlement Agreement and Final Order
6 or of Sections 5(a) or 12 of the FTC Act, 15 U.S.C. §§ 45(a)
7 and 52, related to a Bond Covered Activity;

8 6. The bond required pursuant to this Paragraph is in addition to
9 and not in lieu of any other bond required by federal, state or
10 local law. The bond requirements of this Settlement
11 Agreement and Final Order shall not be construed to limit or
12 preempt the regulatory powers of any other federal, state or
13 local governmental agency or authority;

14 7. At least ten (10) days before commencing any Bond Covered
15 Activity, Defendant Revel shall provide a copy of any bond
16 required by this section to the Associate Director for
17 Enforcement at the Federal Trade Commission by overnight
18 courier; and

19 8. Defendant Revel, directly or through any other persons acting
20 in concert or participation with *him or under his authority*,
21 supervision or control shall not disclose the existence of any
22 surety bond required by this Settlement Agreement and Final
23 Order to any consumer or prospective customer without
24 simultaneously making the following disclosure: **“THIS**
25 **BOND IS REQUIRED BY THE FEDERAL TRADE**
26 **COMMISSION IN SETTLEMENT OF CHARGES THAT**
27 **CHASE REVEL USED DECEPTIVE CLAIMS TO**
28 **PROMOTE AND SELL DIETARY SUPPLEMENTS.”**

1 Such disclosure shall be made clearly and prominently, and in
2 close proximity to any statement disclosing the existence of the
3 bond.

4 C. In lieu of the bond required by Subparagraph A hereof, Defendant
5 Revel may place the sum of the amount of the bond in cash or by an
6 irrevocable letter of credit issued by an accredited United States bank,
7 in an escrow account to be held by a suitable escrow agent to be
8 selected by the Commission, or its representative. Defendant Revel
9 shall pay the costs associated with the creation, funding, operation,
10 and administration of the escrow account. The letter of credit shall be
11 subject to all of the terms and conditions of the bond required by
12 Section B (1)-(3) and (5)-(8) hereof. The escrow agreement shall
13 provide that the escrow agent, within thirty (30) days following
14 receipt of notice that a final judgment or an order of the Commission
15 against Defendant Revel for consumer redress or disgorgement in an
16 action brought under the provisions of the Federal Trade Commission
17 Act has been entered and the time for all appeals is exhausted, or, in
18 the case of an order of the Federal Trade Commission, has become
19 final and the time for all appeals is exhausted, finding that he has
20 violated the terms of this Settlement Agreement and Final Order or
21 the provisions of the Federal Trade Commission Act, and determining
22 the amount of consumer redress or disgorgement to be paid, shall pay
23 to the Commission so much of the funds of the escrow account as
24 does not exceed the amount of consumer redress or disgorgement
25 ordered, and which remains unsatisfied at the time notice is provided
26 to the escrow agent, *provided that*, if Defendant Revel has agreed to
27 the entry of a court order or an order of the Commission, a specific
28 finding that Defendant Revel has violated the terms of this Settlement

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1 Agreement and Final Order or the provisions of the Federal Trade
2 Commission shall not be necessary. A copy of the notice provided
3 for herein shall be mailed via overnight to Defendant Revel at his last
4 known address, with a copy to counsel of record herein.

5 **FDA APPROVED CLAIMS**

6 **XI.**

7 **IT IS FURTHER ORDERED** that:

- 8 A. Except as provided in Paragraph X, nothing in this Settlement
9 Agreement and Final Order shall prohibit Defendant Revel from
10 making any representation for any drug that is permitted in labeling
11 for such drug under any tentative final or final standard promulgated
12 by the Food and Drug Administration, or under any new drug
13 application approved by the Food and Drug Administration; and
- 14 B. Except as provided in Paragraph X, nothing in this Settlement
15 Agreement and Final Order shall prohibit Defendant Revel from
16 making any representation for any product that is specifically
17 permitted in labeling for such product by regulations promulgated
18 under the laws of the United States of America.

19 **MONETARY RELIEF**

20 **XII.**

21 **IT IS FURTHER ORDERED** that:

- 22 A. Defendant Revel shall pay to the Commission the sum of Twenty-
23 Seven Thousand Five Hundred Dollars (\$27,500) in the following
24 manner:
25 1. Defendant has placed the sum of Twenty-Seven Thousand Five
26 Hundred Dollars (\$27,500) into a trust account at the law firm
27 of Defendant's Counsel, Kirkpatrick & Lockhart Nicholson
28 Graham LLP, which shall be held by Defendant's counsel in

1 such trust account and transferred within five (5) business days
2 after entry of this Settlement Agreement and Final Order, by
3 electronic funds transfer into an account to be designated by
4 the Commission in accord with directions provided by the
5 Commission.

6 2. All funds paid pursuant to this Settlement Agreement and Final
7 Order shall be deposited into a fund administered by the
8 Commission or its agent to be used for equitable relief,
9 including but not limited to consumer redress and any attendant
10 expenses for the administration of such equitable relief. In the
11 event that direct redress to consumers is wholly or partially
12 impracticable or funds remain after redress is completed, the
13 Commission may apply any remaining funds for such other
14 equitable relief (including consumer information remedies) as
15 it determines to be reasonably related to the Defendant's
16 practices alleged in the complaint. Any funds not used for such
17 equitable relief shall be deposited to the United States Treasury
18 as disgorgement. Defendant shall have no right to challenge
19 the Commission's choice of remedies under this Paragraph.
20 Defendant shall have no right to contest the manner of
21 distribution chosen by the Commission.

22 3. The monetary relief paid herein is deemed to be restitution or
23 disgorgement and no portion of any payments herein shall be
24 deemed a payment of any fine, penalty, or punitive assessment.

25 4. In accordance with 31 U.S.C. § 7701, Defendant is hereby
26 required, unless he has done so already, to furnish to the
27 Commission his taxpayer identifying numbers and/or social
28 security numbers, which may be used solely for purposes of

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1 collecting and reporting on any delinquent amount arising out
2 of Defendant's relationship with the government.

3 5. Defendant relinquishes all dominion, control, and title to the
4 funds paid into the account established pursuant to this
5 Settlement Agreement and Final Order, and all legal and
6 equitable title to the funds shall vest in the Treasurer of the
7 United States unless and until such funds are disbursed to
8 consumers. Defendant shall make no claim to or demand for
9 the return of the funds, directly or indirectly, through counsel
10 or otherwise; and in the event of bankruptcy of the Defendant,
11 Defendant acknowledges that the funds are not part of the
12 debtor's estate, nor does the estate have any claim or interest
13 therein.

14 B. Proceedings instituted under this Paragraph are in addition to, and not
15 in lieu of, any other civil or criminal remedies that may be provided
16 by law, including any other proceedings the Commission may initiate
17 to enforce this Settlement Agreement and Final Order.

18 C. Defendant agrees that, if he fails to timely and completely fulfill the
19 payment obligations set forth in this Final Settlement Agreement and
20 Final Order, the facts as alleged in the Complaint filed in this matter
21 shall be taken as true in any subsequent litigation filed by the
22 Commission to enforce its rights pursuant to this Settlement
23 Agreement and Final Order, including but not limited to, a
24 nondischargeability complaint in any bankruptcy case.

25 **Right to Reopen**

26 **XIII.**

27 **IT IS FURTHER ORDERED** that:

28 A. The Commission's agreement to this Settlement Agreement and Final

1 Order is expressly premised upon Defendant's financial condition as
2 represented by Defendant Revel or his counsel in submissions made
3 to the Commission, to wit:

- 4 1. the sworn financial disclosures dated January 9, 2006, and the
5 attached asset/liability spreadsheet, bank statements, and boat
6 survey; and
- 7 2. the Verification of Financial Information, executed and dated
8 December 12, 2005.

9 These financial statements and supporting documents contain
10 material information upon which the Commission relied in
11 negotiating and agreeing to the terms of this Settlement Agreement
12 and Final Order.

13 B. If, upon written motion by the Commission, a Court should determine
14 that Defendant Revel made a material misrepresentation or omitted
15 material information concerning his financial condition to the
16 Commission, then the Court shall enter judgment for disgorgement
17 against Defendant Revel in favor of the Commission, in the amount
18 of One Million Dollars (\$1,000,000), which amount shall become
19 immediately due and payable by Defendant Revel, and interest
20 computed at the rate prescribed under 28 U.S.C. § 1961, as amended,
21 shall immediately begin to accrue on the unpaid balance; *provided*,
22 *however*, that in all other respects this Settlement Agreement and
23 Final Order shall remain in full force and effect unless otherwise
24 ordered by the Court; and, *provided further*, that proceedings
25 instituted under this provision would be in addition to, and not in lieu
26 of, any other civil or criminal remedies as may be provided by law,
27 including but not limited to contempt proceedings, or any other
28 proceedings that the Commission or the United States may initiate to

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1 enforce this Settlement Agreement and Final Order. For purposes of
2 this Paragraph, and any subsequent proceedings to enforce payment,
3 including but not limited to a non-dischargeability complaint filed in
4 a bankruptcy proceeding, Defendant Revel agrees: (1) not to contest
5 any of the allegations in the Commission's Complaint and (2) to
6 accept service of any written motion through Plaintiff's mailing such
7 motion to Defendant's counsel of record herein or such substitute
8 counsel as Defendant may advise Plaintiff.

9 **COMPLIANCE REQUIREMENTS**

10 **Employees' Compliance with Order**

11 **XIV.**

12 **IT IS FURTHER ORDERED** that Defendant Revel, directly or through
13 any corporation, partnership, subsidiary, division, trade name, or other device,
14 shall:

15 A. Take reasonable steps sufficient to monitor and ensure that all
16 employees and agents whom he supervises, manages, or controls, and
17 who are engaged in sales, marketing, advertising, promotion, or other
18 customer service or policy functions comply with Parts I through IX
19 of this Settlement Agreement and Final Order. Such steps shall
20 include adequate monitoring of all advertisements, promotions, sales
21 presentations, and other oral and written communication with
22 customers regarding such products or services. Defendant Revel, at a
23 minimum, shall:

- 24 1. Conduct periodic monitoring of representations concerning any
25 product or service made by such persons engaged in sales or
26 other customer service functions, including any representations
27 made orally or through electronic communications;
28 2. Conduct periodic monitoring of representations made by such

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persons in advertising for the product or service;

- 3. Maintain a procedure for receiving, maintaining, and responding to consumer complaints; and
- 4. Maintain a procedure for taking action against any employee or agent who engages in any conduct prohibited by Paragraphs I through IX of this Settlement Agreement and Final Order, including, but not limited to, warning each such employee or agent upon the first instance of non-compliance and termination, as specified below in Subparagraph B of this Paragraph.

B. Subject to limitations imposed by federal and state employment laws, terminate the employment of any employee or agent who engages in any conduct prohibited by Parts I through IX of this Settlement Agreement and Final Order once Defendant Revel knows or should know that such person is or has been engaged in such conduct after having been warned of a previous instance of non-compliance.

Compliance Reporting

XV.

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Settlement Agreement and Final Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Settlement Agreement and Final Order, Defendant Revel:
 - 1. Shall notify the Commission of the following:
 - a. Any changes in residence(s), mailing address(es), and telephone number(s) of the Defendant, within ten (10) days of the date of such change;
 - b. Any changes in Defendant's employment status (including self-employment), and any change in

1 Defendant's ownership of any business entity engaged in
2 the manufacturing, labeling, advertising, promotion,
3 offering for sale, sale, or distribution of a covered
4 product or service, within ten (10) days of such change.
5 Such notice shall include the name and address of each
6 such business engaged in the manufacturing, labeling,
7 advertising, promotion, offering for sale, sale, or
8 distribution of a covered product or service that the
9 Defendant is affiliated with, employed by, creates or
10 forms, or performs services for; a statement of the nature
11 of the business; and a statement of the Defendant's
12 duties and responsibilities in connection with the
13 business or employment; and

14 c. Any changes in the Defendant's name or Defendant's use
15 of any additional name(s); and

16 2. Shall notify the Commission of any proposed change in
17 corporate structure of any business entity that Defendant Revel
18 directly or indirectly controls, or has an ownership interest in,
19 that may affect compliance obligations arising under this
20 Settlement Agreement and Final Order, including but not
21 limited to a dissolution, assignment, sale, merger, or other
22 action that would result in the emergence of a successor
23 corporation; the creation or dissolution of a subsidiary, parent,
24 or affiliate that engages in any acts or practices subject to this
25 Settlement Agreement and Final Order; the filing of a
26 bankruptcy petition; or a change in the corporate name or
27 address, at least thirty (30) days prior to such change, *provided*
28 *that*, with respect to any proposed change in the corporation

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1 about which Defendant Revel learns less than thirty (30) days
2 prior to the date such action is to take place, Defendant Revel
3 shall notify the Commission as soon as is practicable after
4 obtaining such knowledge.

5 B. Sixty (60) days after the date of entry of this Settlement Agreement
6 and Final Order, Defendant Revel shall provide a written report to the
7 Commission, sworn to under penalty of perjury, setting forth in detail
8 the manner and form in which he has complied and is complying with
9 the terms of this Settlement Agreement and Final Order. This report
10 shall include, but not be limited to:

- 11 1. The then-current residence addresses, mailing addresses, and
12 telephone numbers of Defendant Revel;
- 13 2. The then-current employment and business addresses and
14 telephone numbers of Defendant Revel, a description of the
15 business activities of each such employer or business, and the
16 title and responsibilities of the Defendant, for each such
17 employer or business;
- 18 3. The full name, address, telephone number, and state of
19 incorporation of each corporation for which Defendant Revel is
20 an officer or director or in which he holds more than five (5)
21 percent of the shares of the corporation;
- 22 4. A copy of each acknowledgment of receipt of this Settlement
23 Agreement and Final Order obtained by Defendant Revel
24 pursuant to Paragraph XVIII.C;
25 and
- 26 5. Any other changes required to be reported under Subparagraph
27 A of this Section.

28 For purposes of this Paragraph, "employment" includes the

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1 performance of services as an employee, consultant, or independent
2 contractor; and "employers" include any individual or entity for
3 whom Defendant Revel performs services as an employee, consultant,
4 or independent contractor.

5 C. For purposes of this Settlement Agreement and Final Order,
6 Defendant Revel shall, unless otherwise directed by the
7 Commission's authorized representatives, mail all written
8 notifications to the Commission to:

9 Associate Director for Enforcement
10 Federal Trade Commission
11 600 Pennsylvania Avenue, N.W., Rm. NJ2122
12 Washington, D.C. 20580
13 Re: FTC v. Braswell et al., No. CV 03-3700-DT (PJWx)

14 D. For purposes of the compliance reporting required by this Paragraph,
15 the Commission is authorized to communicate in writing directly with
16 Defendant Revel, with a copy to Defendant's counsel of record
17 herein, or such substitute counsel as Defendant may advise Plaintiff.
18 Defendant shall be given the opportunity to have counsel present for
19 any oral communications.

20 **Compliance Monitoring**

21 **XVI.**

22 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and
23 investigating compliance with any provision of this Settlement Agreement and
24 Final Order,

25 A. Within ten (10) days, or such longer period as may be reasonable but
26 not to exceed thirty (30) days, of receipt of written notice from a
27 representative of the Commission, Defendant Revel shall submit
28 additional written reports, sworn to under penalty of perjury; produce
documents for inspection and copying; appear for deposition; and/or

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1 provide entry during normal business hours to any business location
2 in Defendant Revel's possession or direct or indirect control to
3 inspect the business operation;

4 B. In addition, the Commission is authorized to monitor compliance with
5 this Settlement Agreement and Final Order by all other lawful means,
6 including but not limited to the following:

7 1. obtaining discovery from any person, without further leave of
8 court, using the procedures prescribed by Fed. R. Civ. P. 30,
9 31, 33, 34, 36, and 45;

10 2. posing as consumers or suppliers to Defendant Revel,
11 employees of Defendant Revel, or any other entity managed or
12 controlled in whole or in part by Defendant Revel without the
13 necessity of identification or prior notice; and

14 C. Defendant Revel shall permit representatives of the Commission to
15 interview any employer, consultant, independent contractor,
16 representative (except Defendant's legal counsel), agent, or employee
17 who has agreed to such an interview, relating in any way to any
18 conduct subject to this Settlement Agreement and Final Order. The
19 person interviewed may have counsel present.

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

26 **RECORD KEEPING PROVISIONS**

27 **XVII.**

28 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the

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1 date of entry of this Settlement Agreement and Final Order. Defendant Revel and
2 his agents, employees, officers, corporations, successors, and assigns, and those
3 persons in active concert or participation with them who receive actual notice of
4 this Settlement Agreement and Final Order by personal service or otherwise, is
5 hereby restrained and enjoined from failing to continue to create and retain the
6 following records:

- 7 A. Accounting records that reflect the cost of any goods or services sold,
8 revenues generated, and disbursement of such revenues;
- 9 B. Personnel records accurately reflecting: the name, address, and
10 telephone number of each person employed in any capacity by such
11 business, including as an independent contractor; that person's job
12 title or position; the date upon which the person commenced work;
13 and the date and reason for the person's termination, if applicable;
- 14 C. Customer files containing the names, addresses, telephone numbers,
15 dollar amounts paid, quantity of items or services purchased, and
16 description of items or services purchased, to the extent such
17 information is obtained in the ordinary course of business;
- 18 D. Complaints and refund requests (whether received directly, indirectly,
19 or through any third party) and all records showing any responses to
20 those complaints or requests;
- 21 E. Copies of all advertisements, promotional materials, sales scripts,
22 training materials, or other marketing materials utilized in the
23 advertising, marketing, promotion, offering for sale, distribution or
24 sale of any covered product or service;
- 25 F. All materials that were relied upon in making any representations
26 contained in the materials identified in Subparagraph E above,
27 including all documents evidencing or referring to the accuracy of
28 any claim therein or to the efficacy of any covered product or service,

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1 including, but not limited to, all tests, reports, studies,
2 demonstrations, as well as all evidence in Defendant Revel's
3 possession that confirms, contradicts, qualifies, or calls into question
4 the accuracy of such claims regarding the efficacy of such covered
5 product or service;

6 G. Records accurately reflecting the name, address, and telephone
7 number of each manufacturer or laboratory engaged in the
8 development or creation of any testing obtained for the purpose of
9 advertising, marketing, promoting, offering for sale, distributing, or
10 selling any product; and

11 H. All records and documents necessary to demonstrate full compliance
12 with each provision of this Settlement Agreement and Final Order,
13 including but not limited to, copies of acknowledgments of receipt of
14 this Settlement Agreement and Final Order and all reports submitted
15 to the FTC pursuant to this Settlement Agreement and Final Order.

16 **DISTRIBUTION OF ORDER**

17 **XVIII.**

18 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the
19 date of entry of this Settlement Agreement and Final Order, Defendant Revel shall
20 deliver copies of the Settlement Agreement and Final Order as directed below:

21 A. **Defendant Revel as Control Person:** For any business engaged in
22 the advertising, promotion, marketing, offering for sale, or sale of any
23 food, drug, dietary supplement, device, or any health-related service
24 that Defendant Revel controls, directly or indirectly, or in which such
25 Defendant has a majority ownership interest, Defendant Revel must
26 deliver a copy of this Settlement Agreement and Final Order to all
27 principals, officers, directors, and managers of that business. For
28 current personnel, delivery shall be within five (5) days of service of

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1 this Settlement Agreement and Final Order upon Defendant Revel.
2 For new personnel, delivery shall occur prior to them assuming their
3 position or responsibilities.

4 **B. Defendant Revel as Employee or Non-Control Person:** For any
5 business engaged in the advertising, promotion, marketing, offering
6 for sale, or sale of any Bond Covered Activity where Defendant
7 Revel is not a controlling person of a business but otherwise engages
8 in conduct related to the subject matter of this Settlement Agreement
9 and Final Order either as an employee, consultant, contractor, or
10 agent, Defendant Revel must deliver a copy of this Settlement
11 Agreement and Final Order to the chief executive officer or highest
12 executive manager of the business; to the Chairman of the Board of
13 Directors or head of a comparable executive governing committee;
14 and to such supervisors and managers involved in advertising,
15 promotion, or marketing activities with whom, or for whom,
16 Defendant Revel works, before engaging in such conduct.

17 **C.** Defendant Revel must secure a signed and dated statement
18 acknowledging receipt of the Settlement Agreement and Final Order,
19 within thirty (30) days of delivery, from all persons receiving a copy
20 of the Settlement Agreement and Final Order pursuant to this Part.

21 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

22 **XIX.**

23 **IT IS FURTHER ORDERED** that Defendant Revel, within five (5)
24 business days of receipt of this Settlement Agreement and Final Order as entered
25 by the Court, must execute and submit to the Commission a sworn statement
26 acknowledging receipt of this Settlement Agreement and Final Order.

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COURT'S RETENTION OF JURISDICTION

XX.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Settlement Agreement and Final Order.

SO STIPULATED AND AGREED:

Rosemary Rosso

DAVID P. FRANKEL
ROSEMARY ROSSO
MAMIE KRESSES
THEODORE H. HOPPOCK
CHRISTINE J. LEE
DAVID K. KOEHLER
ALYSA BERNSTEIN
JAMES A. TRILLING

Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Rm. NJ-3212
Washington, D.C. 20580
(202)326-2812, -2174, -2070
(202)326-3259 (facsimile)

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

Chase Revel 1/9/06

CHASE REVEL a/k/a Marcus
Welbourne, John Welburn, James
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Attorney for DEFENDANT REVEL

SO ORDERED

DATED: 1-19-06

DICKRAN TEVRIZIAN

HON. DICKRAN TEVRIZIAN
UNITED STATES DISTRICT JUDGE