

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

_____)
In the Matter of)

BASIC RESEARCH, L.L.C.,)
A.G. WATERHOUSE, L.L.C.,)
KLEIN-BECKER USA, L.L.C.,)
NUTRASPORT, L.L.C.,)
SOVAGE DERMALOGIC)
LABORATORIES, L.L.C.,)
BAN, L.L.C.,)
DENNIS GAY,)
DANIEL B. MOWREY, and)
MITCHELL K. FRIEDLANDER,)

Respondents.)
_____)

Docket No. 9318

PUBLIC DOCUMENT

**COMPLAINT COUNSEL'S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE RESPONSES TO RESPONDENT GAY'S FIRST SET OF
INTERROGATORIES AND RESPONDENT FRIEDLANDER'S FIRST SET OF
INTERROGATORIES**

Complaint Counsel moves to extend the time to respond to Respondent Dennis Gay's *First Set of Interrogatories* and *Pro Se* Respondent Mitchell Friedlander's *First Set of Interrogatories* from December 1, 2004, to December 3, 2004, and in support thereof states as follows:

1. On October 29, 2004, Respondent Dennis Gay attempted to serve his *First Set of Interrogatories, First Set of Document Requests, and First Request for Admissions*. Because these discovery requests were sent after the allowable time for filing, these requests were treated as being served on November 1st. Complaint Counsel's responses were otherwise due on November 16, 2004.
2. On Friday, November 5, 2004, Respondent Mitchell Friedlander attempted to serve his

First Set of Interrogatories, First Set of Document Requests, and First Request for Admissions.

Because these discovery requests were sent after the allowable time for filing, these requests were treated as being served on Monday, November 8th. Complaint Counsel's responses were otherwise due on November 23, 2004.

3. On November 22, 2004, pursuant to Complaint Counsel's motions (unopposed by Respondent Gay and Respondent Friedlander), the Administrative Law Judge extended the time for Complaint Counsel to respond to Respondent Gay's and Respondent Friedlander's discovery requests to December 1, 2004.

4. Pursuant to Rule of Practice 4.3, the Administrative Law Judge may extend any time limit prescribed or allowed by the Rules.

5. On November 30, 2004, Complaint Counsel, Laura Schneider, discussed the relief sought in this Request with counsel for Respondent Gay, Andrew Dymek. Mr. Dymek represented that Respondent did not oppose the requested two day extension.

6. On November 30, 2004, Complaint Counsel, Laura Schneider, discussed the relief sought in this Request with *Pro Se* Respondent Mitchell Friedlander. Mr. Friedlander represented that he did not oppose the requested two day extension

7. Good cause exists to justify this brief two day extension. Complaint Counsel is presently engaged in multiple tasks associated with completing discovery and addressing and resolving numerous discovery issues. Complaint Counsel has been preparing other responses to numerous discovery requests which are due on December 1, 2004, which include *Pro Se* Respondent Friedlander's *First Request for Production of Documents*, *Pro Se* Respondent Friedlander's *Request for Admissions*, Respondent Gay's *First Request for Production*, Respondent Gay's *First Set of Requests for Admissions*, and Respondent Mowrey's *First Request for Production of*

Documents. Complaint Counsel intends to timely file these responses. In addition, Complaint Counsel is preparing for upcoming depositions including the deposition of Respondents' advertising expert planned for December 8th, two of Respondents' key witnesses planned for December 9th and 10th, and other important depositions towards the end of the month. Moreover, today, Complaint Counsel received Respondents' expert report from Lawrence Solan and Complaint Counsel is in the process of reviewing the report and determining whether to prepare a rebuttal report.

8 A proposed order is attached hereto for the Court's convenience.

Date: November 30, 2004

Respectfully submitted by:



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Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

COUNSEL SUPPORTING THE COMPLAINT

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November, 2004, I caused *Complaint Counsel's Unopposed Motion for Extension of Time to File Responses to Respondent Gay's First Set of Interrogatories and Pro Se Respondent Friedlander's First Set of Interrogatories* to be served and filed as follows:

- (1) the original, two (2) paper copies filed by hand delivery and one (1) electronic copy via email to:
Donald S. Clark, Secretary
Federal Trade Commission
600 Penn. Ave., N.W., Room H-159
Washington, D.C. 20580
- (2) two (2) paper copies served by hand delivery to:
The Honorable Stephen J. McGuire
Administrative Law Judge
600 Penn. Ave., N.W., Room H-104
Washington, D.C. 20580
- (3) one (1) electronic copy via email and one (1) paper copy by first class mail to the following persons:

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COMPLAINT COUNSEL

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TO: The Honorable Stephen J. McGuire
Chief Administrative Law Judge

ORDER ON UNOPPOSED MOTION FOR EXTENSION OF TIME

THIS CAUSE came before the Administrative Law Judge on Complaint Counsel's Unopposed Motion for Extension of Time to File Responses to Respondent Gay's and Respondent Friedlander's interrogatories. Having reviewed the Motion, it is ORDERED that Complaint Counsel's Unopposed Motion for Extension of Time is GRANTED. Complaint Counsel shall have up to and including December 3, 2004, to respond to Respondent Gay's First Set of Interrogatories and Respondent Friedlander's First Set of Interrogatories.

DONE AND ORDERED this _____ day of December, 2004.

Stephen J. McGuire
Administrative Law Judge

Copies furnished to:
All counsel of record