

IN THE UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGES



)
In the Matter of
)
DANIEL CHAPTER ONE,
)
a corporation, and
)

DOCKET NO. 9329

)
)
JAMES FEIJO,
)
Individually, and as an officer of
)
Daniel Chapter One.
)

PUBLIC DOCUMENT

**RESPONDENTS' OPPOSITION TO COMPLAINT COUNSEL'S
MOTION IN LIMINE TO EXCLUDE EVIDENCE RELATING TO
DANIEL CHAPTER ONE'S FOR-PROFIT STATUS**

I. INTRODUCTION

By its Motion in Limine and Memorandum in Support to Exclude Evidence Relating to Daniel Chapter One's For-Profit Status, Complaint Counsel seeks to block Respondents from introducing any evidence on the non-profit status of Daniel Chapter One. On March 20, 2009, this Court issued an order stating in part:

"in order to properly, with due consideration, resolve the issue, a hearing will be held for the limited purpose of determining whether DCO is a corporation within the meaning of 15 U.S.C. sec 44 and applicable case law."

Order Setting Hearing on Jurisdiction and Revising Scheduling Order, March 20, 2009, p. 4.

Respondents intend to answer in detail the issues raised in Complaint Counsel's motion to exclude evidence relating to DCO's for-profit status during the hearing process ordered by the Court. For the purposes of this opposition, Respondents deny

the allegations made in Complaint Counsel's motion that are asserted to justify denying Respondents' right to introduce evidence on the corporate status of DCO.

II. THE MARCH 20, 2009 ORDER OF THIS COURT STAYS RULING ON COMPLAINT COUNSEL'S MOTION

By order of this Court the issues raised in Complaint Counsel's motion and memorandum concerning the for-profit status of Daniel Chapter One are set to be addressed in the hearing process—including opening statement and closing argument—on April 21, 2009. Respondents' presentations as a part of that hearing will of necessity respond in detail to the points raised in Complaint Counsel's motion and memorandum.

III. RESPONDENTS DENY THE ALLEGATIONS THAT THEY HAVE FAILED TO PROVIDE ALL AVAILABLE FINANCIAL DOCUMENTS AND ANSWER ALL FINANCIAL QUESTIONS TO THE BEST OF THEIR ABILITY

Complaint Counsel seeks a sanction against Respondents of a judicial determination that they have failed to properly respond to Complaint Counsel's requests for financial information from Respondents. In fact, Respondents have complied with each request and each order to compel. They have provided the financial documents they have in their possession. They have provided the name of the bank where their accounts are maintained. They have described in detail the financial information as they know it to be. In addition, financial records for the production of three of the Challenged Products were provided by the manufacturer of those products. Complaint Counsel was in communication with the manufacturer of the fourth product and informed Respondents that they did not intend to call him as a witness.

This Court's March 20, 2009 order cites five instances in which Complaint Counsel alleges that Respondents failed to provide desired financial information. In each instance Respondents provided the best available information to answer the inquiry. It is a matter of religious principle of Respondents that if they need money they pray and they receive money. In this context, they do not maintain financial records in any detail as part of their ministry. On the other hand, the minimal documents which they do maintain they have turned over to Complaint Counsel.

IV. CONCLUSION

The Court has ordered a hearing during which the matters raised by Complaint Counsel's motion and memorandum to exclude evidence on Respondent DCO's for-profit status—whether DCO is a corporation within the meaning of 15 U.S.C. § 44—will be heard. However, in spite of the fact that the issues will be addressed in detail during the hearing, Respondents deny that they have withheld any available financial information from Complaint Counsel. On the contrary, Respondents assert that they have made available all financial information in their possession. For these reasons, Respondents respectfully request that the Court deny Complaint Counsel's Motion to Exclude Evidence Relating to Daniel Chapter One's For-Profit Status.

Respectfully submitted,

Dated: March 26, 2009.



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[PROPOSED] ORDER DENYING MOTION IN LIMINE

Upon Consideration of Complaint Counsel's Motion in Limine and Memorandum in Support to Exclude Evidence Relating to Daniel Chapter One's For-Profit Status, and Respondents' Opposition thereto,

IT IS HEREBY ORDERED that Complaint Counsel's Motion is DENIED.

ORDERED:

D. Michael Chappell
Administrative Law Judge

Date:

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5 **In the Matter of**) **Docket No.: 9329**
6)
7 **DANIEL CHAPTER ONE,**)
8 **a corporation, and**) **PUBLIC DOCUMENT**
9 **JAMES FEIJO,**)
10 **individually, and as an officer of**)
11 **Daniel Chapter One**)

12 **CERTIFICATE OF SERVICE**

13
14 I certify that on March 26, 2009, I served or caused to be served the following documents
15 on the individuals listed below by electronic mail, followed by Federal Express delivery (except
16 as noted below):

17 **RESPONDENTS' OPPOSITION TO COMPLAINT COUNSEL'S MOTIONS TO EXCLUDE THE TESTIMONY**
18 **AND REPORTS OF RESPONDENTS' EXPERT WITNESSES DRs. JAMES DUKE, SALLY LAMONT,**
19 **RUSTUM ROY, AND JAY LEHR AND MR. JAMES DEWS**

20 **RESPONDENTS' OPPOSITION TO COMPLAINT COUNSEL'S MOTION IN LIMINE TO EXCLUDE**
21 **EVIDENCE RELATING TO DANIEL CHAPTER ONE'S FOR-PROFIT STATUS**

22 **RESPONDENTS' OPPOSITION TO COMPLAINT COUNSEL'S MOTION IN LIMINE TO PRECLUDE**
23 **RESPONDENTS FROM INTRODUCING AT TRIAL EVIDENCE OF RESPONDENTS' "GOOD**
24 **FAITH" AND NON-EXPERT OPINIONS ABOUT THE DCO PRODUCTS AS A DEFENSE TO**
25 **LIABILITY**

26 **RESPONDENTS' OPPOSITION TO COMPLAINT COUNSEL'S MOTION TO PRECLUDE**
27 **RESPONDENTS FROM INTRODUCING AT TRIAL EVIDENCE OF PURPORTED CONSUMER**
28 **SATISFACTION AS A DEFENSE TO LIABILITY**

Service to:

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