

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

042-3002

In the Matter of)
)
)
DYNAMIC HEALTH OF FLORIDA, LLC,)
CHHABRA GROUP, LLC,)
DBS LABORATORIES, LLC,)
limited liability companies,)
)
VINEET K. CHHABRA,)
a/k/a VINCENT K. CHHABRA)
individually and as an officer of)
Dynamic Health of Florida, LLC,)
and Chhabra Group, LLC, and)
)
JONATHAN BARASH,)
individually and as an officer of)
DBS Laboratories, LLC.)
)

DOCKET NO. 9317

COMPLAINT

The Federal Trade Commission, having reason to believe that Dynamic Health of Florida, LLC, Chhabra Group, LLC, DBS Laboratories, LLC, Vineet K. Chhabra a/k/a Vincent K. Chhabra, and Jonathan Barash (collectively, "respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Dynamic Health of Florida, LLC ("Dynamic Health") is a Florida limited liability company with offices located at 1455 North Park Dr., Weston, Florida.
2. Respondent Chhabra Group, LLC ("Chhabra Group") is a Florida limited liability company located at 1455 North Park Dr., Weston, Florida.
3. Respondent DBS Laboratories, LLC ("DBS Laboratories") is a Florida limited liability company with offices located at 1485 North Park Dr., Weston, Florida.
4. Respondent Vineet K. Chhabra a/k/a Vincent K. Chhabra is an officer of Dynamic Health and Chhabra Group. Individually, or in concert with others, he has formulated, directed, participated in, or controlled the acts or practices of Dynamic Health and Chhabra Group, including the acts and practices alleged in this complaint. His principal office or place of

business is 1455 North Park Dr., Weston, Florida.

5. Respondent Jonathan Barash is an owner and officer of DBS Laboratories, LLC and has participated in its day to day operations. Individually, or in concert with others, he has formulated, directed, participated in, or controlled the acts or practices of DBS Laboratories LLC, including the acts or practices challenged in the complaint. His principal office or place of business is 6599 NW 97th Drive, Parkland, Florida 33076.

6. Respondents have advertised, labeled, offered for sale, sold, and distributed products to the public, including Pedia Loss, a weight loss supplement, and Fabulously Feminine, a female sexual enhancement supplement. Pedia Loss and Fabulously Feminine are either a “food” or a “drug” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. §§ 52 and 55.

7. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PEDIA LOSS

8. Respondents have disseminated or caused to be disseminated advertisements for Pedia Loss through various Internet websites, including www.pedia loss.com, www.dynamichealthproducts.com, and www.dbslabs.com, as well as print advertising in Cosmopolitan magazine. According to the product labels, Pedia Loss contains, among other ingredients, fructose, inulin, glutamine, lecithin, citric acid, and hydroxycitric acid (HCA). Advertisements for Pedia Loss products include, but are not necessarily limited to, the attached Exhibits A through C. The advertisements contain the following statements, among others:

a. **Pedia Loss**

* * *

Child obesity is a growing problem in North America. Pedia Loss is an appetite suppressant for children 6 years and older. Allow children to enjoy their favorite foods without gaining weight. This revolutionary new formula slows the absorption of carbohydrates, allowing more to be burned for energy and less to be stored as fat. This highly effective and natural dietary supplement comes in berry-flavored chewable tablets for easy consumption. In conjunction with a proper diet and exercise program, Pedia Loss can keep your child from becoming a statistic.

Please consult your healthcare provider before giving Pedia Loss

to your child.

* * *

This synergistic formula was designed to aide in a child's glucose metabolism. Since many of their favorite foods are rich in carbohydrates but very low in dietary fiber, their digestive tracts and insulin never function properly. Now with Pedia Loss children can still enjoy their favorite food but with the help of Inulin their bodies with [sic] slow down the absorption of carbohydrate, allowing more to be burned for energy and less to be stored as fat, and give a great source of soluble fiber. In addition to this highly advanced ingredient, we have included supplemental amounts of both glutamine and FOS, which have both been proven to drastically improve intestinal health. Finally this product contains a highly effective compound called HCA. This compound has been shown to safely burn fat without any form of stimulants.

(Exhibit A: web page from
www.dynamichealthproducts.com)

- b. Pedia Loss is highly effective for children 6 years of age and older. Children can still enjoy their favorite food in moderation while slowing the absorption of carbohydrates, allowing more to be burned for energy and less to be stored as fat. For best results use in conjunction with an exercise program and a low fat low calorie diet. Please consult your healthcare provider before giving this product for your child.

(Exhibit B: product label)

c. **Child Obesity**

an american [sic] reality

According to the Centers for Disease Control and Prevention, childhood obesity is a growing problem in the U.S., with one in ten pre-schoolers considered clinically obese. Pedia Loss addresses this growing health care issue in children 6 years of age and older. Children can still enjoy their favorite foods in moderation, while slowing the absorption of carbohydrates. The use of Pedia Loss enables more carbs to be burned for energy and less to be stored as fat. This highly effective and natural dietary supplement comes in berry-flavored chewable tablets that will

appeal to children. Best of all is the feeling of strength and confidence they'll experience by overcoming childhood weight problems. . . .

(Exhibit C: ad in Cosmopolitan Magazine)

9. Through the means described in Paragraph 8, respondents have represented, expressly or by implication, that:

- a. Pedia Loss causes weight loss in overweight or obese children ages 6 and over, and
- b. When taken by overweight or obese children ages 6 and over, Pedia Loss causes weight loss by suppressing appetite, increasing fat burning, and slowing carbohydrate absorption.

10. Through the means described in Paragraph 8, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.

11. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.

FABULOUSLY FEMININE

12. Respondents have disseminated or caused to be disseminated advertisements for Fabulously Feminine through various Internet websites, including www.usaprescription.com, www.dbslabs.com, and www.medprescribe.com, as well as print ads in various newspaper publications. According to the product labels, Fabulously Feminine contains L-arginine, ginseng, damiana leaf, ginkgo biloba leaf, and horny goat weed, among other ingredients. Advertisements for Fabulously Feminine products include, but are not necessarily limited to, the attached Exhibits D through F. The advertisements contain the following statements, among others:

- a. **Fabulously Feminine**
Do you crave more from sexual intimacy? Rev up your sex drive with FABULOUSLY FEMININE. All-natural FABULOUSLY FEMININE can help you build the stamina you need to make your sexual experiences more intense and lasting. . . It's all a matter of stimulating blood flow and increasing sensitivity, and FABULOUSLY FEMININE'S herbal and amino acid formula

accomplishes this naturally, yet powerfully. . . .

* * *

PRODUCT INFORMATION

Fabulously Feminine is a safe, natural way to enhance sexual desire, satisfaction and enjoyment. The ingredients in Fabulously Feminine, when taken daily with a multivitamin, have been shown in a double-blind, placebo-controlled Stanford University study to enhance satisfaction with sex life, the level of sexual desire and frequency of sexual encounters.

It is estimated that 43% of women experience a loss of sexual vitality at some time in their lives. External factors such as stress and fatigue may contribute to the decline in sexual interest. . . .

(Exhibit D : web page from
www.usaprescription.com)

- b. It is not unusual for men and women, young or old, to lose desire, arousal and overall satisfaction in the bedroom. Let **DBS Laboratories** give you the fuel you need to re-kindle the fire inside you.

LIBIDO ENHANCER
**FABULOUSLY
FEMININE**
Dietary Supplement

Millions of women are dealing with the same issues you are. Put your confidence and your relationship in the hands of **Fabulously Feminine** – The safe, natural way to enhance sexual desire, satisfaction and enjoyment. A special libido enhancing formula designed specifically for women, **Fabulously Feminine** contains a proprietary blend of traditional libido enhancing herbs. Not being in the mood for sex is often times the result of poor stimulation; lack of energy, and hormonal imbalance. This product was specially formulated to address these issues. These all-natural ingredients are known to stimulate blood flow and increase sensitivity, making this product one of the most potent available on the market.

(Exhibit E: National Examiner

newspaper ad)

c. LIBIDO ENHANCER
FABULOUSLY™
FEMININE
Dietary Supplement
* * *

A scientific formula designed especially for women, **Fabulously Feminine** contains a proprietary blend of clinically proven ingredients for libido health. Not being in the mood for sex is oftentimes the result of poor stimulation, lack of energy, and hormonal imbalance. This product has been formulated to address these issues. . . .

(Exhibit F: National Enquirer
newspaper ad)

13. Through the means described in Paragraph 12, respondents have represented, expressly or by implication, that clinical testing proves that Fabulously Feminine enhances a woman's satisfaction with her sex life and level of sexual desire.

14. In truth and in fact, clinical testing does not prove that Fabulously Feminine enhances a woman's satisfaction with her sex life and level of sexual desire. Therefore, the representation set forth in Paragraph 13 was, and is, false or misleading.

15. Through the means described in Paragraph 12, respondents have represented, expressly or by implication, that Fabulously Feminine will increase a woman's libido, sexual desire, and sexual satisfaction by stimulating blood flow and increasing sensitivity.

16. Through the means described in Paragraph 12, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 15, at the time the representation was made.

17. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 15, at the time the representation was made. Therefore, the representation set forth in Paragraph 16 was, and is, false or misleading.

18. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

NOTICE

Proceedings on the charges asserted against Dynamic Health of Florida, LLC, Chhabra Group, LLC, DBS Laboratories, LLC, limited liability companies, and Vineet K. Chhabra a/k/a Vincent K. Chhabra in this complaint will be held before an Administrative Law Judge (ALJ) of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. Part 3. A copy of Part 3 of the Rules is enclosed with this complaint.

You may file an answer to this complaint. Any such answer must be filed within 20 days after service of the complaint on you. If you contest the complaint's allegations of fact, your answer must concisely state the facts constituting each ground of defense, and must specifically admit, deny, explain, or disclaim knowledge of each fact alleged in the complaint. You will be deemed to have admitted any allegations of the complaint that you do not so answer.

If you elect not to contest the allegations of fact set forth in the complaint, your answer shall state that you admit all of the material allegations to be true. Such an answer will constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the ALJ will file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. Such an answer may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice.

If you do not answer within the specified time, you waive your right to appear and contest the allegations of the complaint. The ALJ is then authorized, without further notice to you, to find that the facts are as alleged in the complaint and to enter an initial decision and a cease and desist order.

The ALJ will schedule an initial prehearing scheduling conference to be held not later than 14 days after the answers are due. Unless otherwise directed by the ALJ, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within 5 days of receiving a respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

A hearing on the complaint will begin on the fifteenth day of September, 2004, at 10:00 A.M. in Room 532, or such other date as determined by the ALJ. At the hearing, you will have the right to contest the allegations of the complaint and to show cause why a cease and desist order should not be entered against you.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from the record facts developed in any adjudicative proceedings in this matter that the proposed order provisions as to Dynamic Health of Florida, LLC, Chhabra Group, LLC,

DBS Laboratories, LLC, limited liability companies; and Vineet K. Chhabra a/k/a Vincent K. Chhabra, individually and as a director or officer of Dynamic Health of Florida, LLC and Chhabra Group, LLC might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations, in the form of restitution and refunds for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

ORDER

DEFINITIONS

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

- A. Unless otherwise specified, “respondents” shall mean Dynamic Health of Florida, LLC, Chhabra Group, LLC, DBS Laboratories, LLC, limited liability companies, their successors and assigns and their officers; and Vineet K. Chhabra, a/k/a Vincent K. Chhabra, individually and as a director or officer of Dynamic Health of Florida, LLC and Chhabra Group, LLC, and each of the above’s agents, representatives, and employees.
- B. “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 profession to yield accurate and reliable results.
- C. “Pedia Loss” shall mean “Pedia Loss Dietary Supplement” and any other product containing one or more of the ingredients in the current product that is marketed for weight loss or control.
- D. “Fabulously Feminine” shall mean “Fabulously Feminine Dietary Supplement” and any other product containing one or more of the ingredients in the current product that is marketed for sexual enhancement.
- E. “Food,” “drug,” and “device” shall mean as “food,” “drug,” and “device” are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
- F. “Covered product or service” shall mean any dietary supplement, food, drug, or device, and any health-related service or program promoting weight loss or sexual enhancement.

G. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

H. “Endorsement” shall mean as defined in 16 C.F.R. § 255.0(b).

I. The term “including” in this Order shall mean “without limitation.”

J. The terms “and” and “or” in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable phrase or sentence inclusive rather than exclusive.

I.

IT IS ORDERED that:

A. Respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Pedia Loss or any other covered product or service, shall not make any representation, in any manner, expressly or by implication, including through the use of endorsements or the product name, that:

1. Such product or service causes weight loss, suppresses appetite, increases fat burning, or slows carbohydrate absorption;
2. Such product or service causes weight loss in overweight or obese children ages 6 and over; or
3. Such product or service, when taken by overweight or obese children ages 6 and over, suppresses appetite, increases fat burning, or slows carbohydrate absorption,

unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation; and

B. Respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of Fabulously Feminine or any other covered product or service, shall not make any representation, in any manner, expressly or by implication, including through the use of endorsements or the product name, that such product or service will increase a woman’s libido, sexual desire, or sexual satisfaction, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of endorsements or the product name, about the benefits, performance, or efficacy of such product or service, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, shall not misrepresent, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV.

IT IS FURTHER ORDERED that:

A. Nothing in this Order shall prohibit respondents from making any representation for any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

B. Nothing in this Order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

V.

IT IS FURTHER ORDERED that respondents Dynamic Health of Florida, LLC, Chhabra Group, LLC, DBS Laboratories, LLC and their successors and assigns, and respondent Vineet K. Chhabra shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available for inspection and copying:

A. All advertisements and promotional materials containing the representation;

B. All materials that were relied upon in disseminating the representation; and

C. All tests, reports, studies, surveys, demonstrations, or other evidence in their

possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VI.

IT IS FURTHER ORDERED that respondents Dynamic Health of Florida, LLC, Chhabra Group, LLC and DBS Laboratories, LLC and their successors and assigns, and respondent Vineet K. Chhabra shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

IT IS FURTHER ORDERED that respondents Dynamic Health of Florida, LLC, Chhabra Group, LLC, and DBS Laboratories, LLC and their successors and assigns, and respondent Vineet K. Chhabra shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. ***Provided, however,*** that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Attention: In the Matter of Dynamic Health of Florida, LLC.

VIII.

IT IS FURTHER ORDERED that respondent Vineet K. Chhabra, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new business or employment. The notice shall include respondent's new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities.

IX.

IT IS FURTHER ORDERED that respondent Dynamic Health of Florida, LLC, Chhabra Group, LLC, and DBS Laboratories, LLC and their successors and assigns, and respondent Vineet K. Chhabra shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

X.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

THEREFORE, the Federal Trade Commission this fifteenth day of June, 2004,
has issued this complaint against respondents.

By the Commission.

C. Landis Plummer
Acting Secretary

SEAL: