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UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,

Hon.

Plaintiff

Civil Action No.

v.

LANE LABS-USA, INC., CARTILAGE CONSULTANTS, INC., I. WILLIAM LANE, and ANDREW J. LANE, Verified Complaint for Permanent Injunction and Other Equitable Relief

Defendants.

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), by its undersigned attorneys, allege:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure a permanent injunction and other equitable relief against defendants for their deceptive acts or practices and false advertisements for foods, drugs, devices, services or cosmetics in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

JURISDICTION AND VENUE

- 2. This Court has subject matter jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a), 52, and 53(b) and 28 U.S.C. §§ 1331, 1337(a) and 1345.
- 3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

PLAINTIFF

4. Plaintiff, the FTC, is an independent agency of the United States government created by statute, 15 U.S.C. §§ 41-58. The FTC enforces Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, which prohibit, respectively, deceptive acts and practices, and false advertisements for food, drugs, devices, cosmetics, or services, in or affecting commerce. The FTC may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief as is appropriate in each case. 15 U.S.C. § 53(b).

DEFENDANTS

- 5. Defendant Lane Labs-USA, Inc. ("Lane Labs") is a Delaware corporation with its principal place of business at 110 Commerce Drive, Allendale, New Jersey 07401-1600. Lane Labs also does business under the name CompassioNet. Lane Labs transacts or has transacted business in the District of New Jersey.
- 6. Defendant Cartilage Consultants, Inc. ("Cartilage Consultants") is a New Jersey corporation with its principal place of business at 80 Woodland Road, Apartment 4, Short Hills, New Jersey 07078-2437. Cartilage Consultants promotes or has promoted Lane Labs products as effective in treating cancer. Cartilage Consultants transacts or has transacted business in the District of New Jersey.
- 7. The foregoing defendant corporations, Lane Labs and Cartilage Consultants, operate together as part of a common enterprise (hereinafter "the Lane Labs Enterprise") to market products as treatments for cancer.
- 8. Defendant I. William Lane ("I. Lane") is owner, president, and a director of Cartilage Consultants. Individually, or in concert with others, he directs, controls, formulates, or participates in the acts and practices of the Lane Labs Enterprise, including the acts and practices complained of below. He resides and transacts or has transacted business in the District of New Jersey.
- 9. Defendant Andrew J. Lane is the president of Lane Labs. Individually, or in concert with others, he directs, controls, formulates, or participates in the acts and practices of the Lane Labs Enterprise, including the acts and practices complained of below. He resides and transacts or has transacted business in the District of New Jersey.

COMMERCE

10. At all times material to this complaint, defendants' course of business, including the acts and practices alleged herein, has been and is in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' COURSE OF CONDUCT

- 11. Since at least 1994, and continuing thereafter, defendants have marketed health products that purportedly treat and cure cancer and other diseases.
- 12. Defendants' products include "BeneFin" and "SkinAnswer." Defendants describe BeneFin as "clinical strength shark cartilage." Defendants describe SkinAnswer as an "all natural glycoalkaloid cream for skin cancer."
- 13. Defendants advertise, promote, offer for sale, sell, and distribute BeneFin and SkinAnswer to consumers throughout the United States via the Internet, mail, telephone sales presentations, trade shows, brochures, and newsletters, among other means.
- 14. Defendants also promote BeneFin and SkinAnswer to consumers throughout the United States via telephone "counseling sessions" with a representative of defendant Cartilage Consultants. Potential customers who contact the Lane Labs Enterprise seeking specific information about the use of BeneFin and SkinAnswer in the treatment of cancer are given a telephone number to call a "trained counselor." The representative answers this telephone line and has conversations with potential customers that promote BeneFin and SkinAnswer.
- 15. Defendants also promote BeneFin and SkinAnswer to consumers throughout the United States via three publications, 1) *Sharks Don't Get Cancer*, 2) *Sharks Still Don't Get*

Cancer, and 3) The Skin Cancer Answer, co-authored by defendant I. Lane, and a video tape,

Shark Cartilage: A Promise Kept, in which defendant I. Lane appears. Employees of the Lane

Labs Enterprise recommend that consumers seeking specific information about the use of

BeneFin and SkinAnswer in the treatment and cure of cancer purchase these materials from

defendant Cartilage Consultants. Information on how to order these materials through defendant

Cartilage Consultants is also available on one of defendants' Internet Web sites,

www.drlane.com.

BeneFin

- 16. Defendants' advertisements and promotional materials about BeneFin include, among others, the following statements:
 - a) Generally within five weeks of starting the therapy, we find an upgrade of quality of life. At eight to ten weeks we find pain mitigation. At about 12 to 14 weeks we find a tumor response. If after 20 weeks you see no response, up your dosage because you may be taking too little.
 - b) Shark cartilage attacks cancer by inhibiting the development of the blood vessels which supply the food that tumors need to grow in effect starving tumors of a needed blood and food supply...

 Deny the tumor food, cutoff its roadway to the rest of the body, and allow the cancer to wither and die.
 - c) Welcome to the Shark Cartilage Update Homepage. In 1983 I began serious research into shark cartilage as an effective fighter of cancer, arthritis, psoriasis, and other angiogenic diseases. Today, shark cartilage is used by over 50,000 people and has become the subject of serious medical research around the world, including two separate FDA clinical trials. In "Sharks Don't Get Cancer" (Avery Publishing) I tell of my pioneering work with animals and humans, including the successful terminal cancer patient trials in Cuba.

- d) Many doctors who specialize in preventive medicine do recommend shark cartilage . . . My present belief, shared by many of the doctors I work with, is that a dosage of 7 to 10 grams per day should prove to be a fairly good prophylactic dose for those who are at risk of cancer, or who have been treated and are presently cancer free.
- e) Physicians all over the world have been using whole shark cartilage on patients and have been getting results Patients taking shark cartilage are experiencing shrinkage of tumor size, decrease in pain, and an over all increase in their quality of life. Doctors all over the world are admitting conventional options often fail.
- f) And in the past twenty years, there has been no more dramatic response with terminal cancer patients than that achieved with shark cartilage. Nothing approaches it. Yet, in conventional medicine, anything that shows a 3- or 4-percent positive result is labeled a "breakthrough." Unfortunately, with the drugs that have netted this response rate, the level of toxicity can also kill the patient. But, these are the drugs that get "good press," while shark cartilage remains a "secret."
- g) One of the major imports of clinical trials is that they move theory into the real world. Our trials on people have not only tested and proven the theory that shark cartilage can cause major tumor reduction but have also given us some concrete data on the method of achieving the reversal.
- h) When a cancer patient starts treatment with shark cartilage they can get their lives back in as little time as a month.
- i) The use of whole shark cartilage has proven so effective as an alternative cancer therapy that it is now being studied in human trials conducted under the auspices of the United States Food and Drug Administration (FDA). Needless to say, these clinical trials were not approved by the FDA overnight or without compelling evidence.
- j) The U.S. Food and Drug Administration has been sufficiently convinced of the potential of shark cartilage to allow Phase II clinical trials on a particular brand of shark cartilage.

k) A lot of people have been putting out products which are called shark cartilage, but unfortunately are not very effective. The FDA has not approved shark cartilage per se. They've approved shark cartilage processed a specific way.

SkinAnswer

17. Defendants' advertisements and promotional materials about SkinAnswer include, among others, the following statements:

a) NEW BREAKTHROUGH CREAM DESTROYS SKIN CANCER CELLS IN JUST WEEKS

- b) A new cream developed as a skin revitalizer called SkinAnswer has also been found to destroy skin cancer cells without harming the healthy cells around them.
- c) The cream can also be used on sunspots before they develop into cancer.
- d) In trial after trial, basal carcinomas, and keratoses disappear when treated with glycoalkaloids.
- 18. A representative of the Lane Labs Enterprise made the following statements, among others, in "counseling sessions" with persons who call Cartilage Consultants with questions about SkinAnswer:

This does work on skin cancers and it doesn't leave any scaring. . . [Upon application of SkinAnswer] you will get a stingy sensation . . . that's an indication that there's cancer cells in that area. You will notice that the area will become very red in color and what is actually happening is the active ingredient, which is the Glycoalkaloid, is actually eating the cancer cells in the flesh.

19. In addition to the representations detailed above, defendants have imbedded specific cancer and skin cancer references in the "metatags" of Lane Labs' Internet Web site. A metatag is a word or words embedded in an Internet Web site, which are not normally displayed visually to the consumer, that may be used by an Internet search engine for the purpose of

selecting sites in response to an Internet user's search request. The cancer references imbedded in Lane Labs' Internet Web site, for example, have included, among others, the following terms: "cancer treatment," "prostate cancer," "chemotherapy," "cancer patients," "cancer survivors," and "non-toxic cancer therapy." Defendants' use of these metatag references increases the likelihood that consumers who research the topics of cancer and skin cancer and effective cancer and skin cancer treatments on the Internet will find information about BeneFin, SkinAnswer and other Lane Labs products.

- 20. Defendants sell BeneFin for \$139.95 (16 oz container of powder), \$35.95 (box of 90 caplets), \$86.95 (box of 270 caplets) and SkinAnswer for \$45.00 (½ oz jar).
- 21. Consumers pay for their purchases of BeneFin and SkinAnswer by check, money order, or by credit card and ordinarily receive their order within seven to ten days.

DEFENDANTS' VIOLATIONS OF SECTIONS 5(a) AND 12 OF THE FTC ACT

- 22. As set forth below, defendants have violated Sections 5(a) and 12 of the FTC Act, 15 U.S.C. § § 45(a) and 52, in connection with the offer, sale, advertising, promotion or distribution of their BeneFin and SkinAnswer products.
- 23. BeneFin and SkinAnswer are either a "food" or "drug" for purposes of Sections 12 and 15 of the FTC Act, 15 U.S.C. §§ 52 and 55.

Unsubstantiated Efficacy Representations

- 24. Through their advertising and promotional materials, and through their oral representations to consumers, including but not limited to the representations set forth in Paragraphs 16 and 19 above, defendants have represented, expressly or by implication, that BeneFin is effective in the prevention, treatment, and/or cure of cancer.
- 25. Through their advertising and promotional materials, and through their oral representations to consumers, including but not limited to the representations set forth in Paragraphs 17 through 19 above, defendants have represented, expressly or by implication, that SkinAnswer is effective in the prevention, treatment, and/or cure of skin cancer.
- 26. Defendants did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraphs 24 and 25, at the time the representations were made. Therefore, the making of the representations set forth in Paragraphs 24 and 25 is a deceptive practice and constitutes false advertising for a food or drug, in violation of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

False Representations Regarding Clinical Proof of Efficacy

27. Through their advertising and promotional materials, defendants have represented, expressly or by implication, that BeneFin is clinically proven to treat and/or cure cancer. In truth and fact, clinical studies do not prove that BeneFin can treat or cure cancer. Therefore, the making of the representation set forth in this Paragraph was, and is, a deceptive practice and constitutes false advertising for a food or drug, in violation of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

28. Through their advertising and promotional materials, defendants have represented, expressly or by implication, that SkinAnswer is clinically proven to treat and/or cure skin cancer. In truth and fact, clinical studies do not prove that SkinAnswer can treat or cure skin cancer. Therefore, the making of the representation set forth in this Paragraph was, and is, a deceptive practice and constitutes false advertising for a food or drug, in violation of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

False Representation Regarding FDA Evaluation of BeneFin

29. Through their advertising and promotional materials, defendants have represented, expressly or by implication, that the Food and Drug Administration has evaluated the effectiveness of BeneFin. In truth and fact, the Food and Drug Administration has not evaluated the effectiveness of BeneFin. Therefore, the making of the representation set forth in this Paragraph was, and is, a deceptive practice and constitutes false advertising for a food or drug, in violation of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

CONSUMER INJURY

30. As a result of defendants' unlawful acts or practices, consumers throughout the United States have suffered and continue to suffer monetary loss and possible injuries to their health. Defendants also have been unjustly enriched as a result of their unlawful practices.

Absent injunctive relief by this Court, the defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

31. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes this Court to grant injunctive and other equitable relief, including consumer redress, disgorgement and restitution, to prevent and remedy any violations of any provision of law enforced by the Commission.

PRAYER FOR RELIEF

WHEREFORE plaintiff Federal Trade Commission pursuant to Section 13(b) of the FTC Act, 15 U.S.C.§ 53(b), and the Court's own equitable powers, requests that this Court:

- 1. Permanently enjoin defendants from violating the FTC Act as alleged herein;
- 2. Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act including the refund of monies paid and the disgorgement of ill-gotten monies; and
- 3. Award plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

DEBRA A. VALENTINE

General Counsel

DARREN A. BOWIE

SARAH L. KNAPP

Attorneys for Plaintiff

FEDERAL TRADE COMMISSION

Dated: (0/27/00

VERIFICATION

Washington, D.C.

SS

DEVENETTE COX of full age, being duly sworn according to law, upon this oath deposes and says:

- 1. I am an investigator with the Federal Trade Commission and I am familiar with the facts of the above-captioned matter.
- 2. The allegations contained in the attached Complaint are true to the best of my knowledge, information and belief.

Sworn and subscribed to before me on this a day of

June, 2000 at Washington, D.C.

Consuella R. Yoosbe

Consuella R. Goosby

Notary Public, District of Columbia

My Commission Expires October 14, 2004