

EXHIBIT A

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of)	
)	
DYNAMIC HEALTH OF FLORIDA, LLC,)	
CHHABRA GROUP, LLC,)	DOCKET NO. 9317
DBS LABORATORIES, LLC,)	
VINEET K. CHHABRA, a/k/a VINCENT K. CHHABRA, and)	
JONATHAN BARASH,)	
Respondents.)	

COMPLAINT COUNSEL'S REQUEST FOR ADMISSIONS BY RESPONDENTS

Pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice and the Scheduling Order issued on August 2, 2004, complaint counsel hereby requests that respondents, within twenty (20) days after service of this request, admit the truth of the statements set forth below.

I ADMISSIONS REQUESTS¹

1. Vineet Chhabra owns 50% or more of, and is an officer or manager of, Dynamic Health of Florida, LLC, Chhabra Group, LLC, Chhabra Internet Support Center, LLC, Chhabra Fulfillment Services, LLC (formerly known as Chhabra Internet Fulfillment Services, LLC), and Metability of Florida, LLC.
2. Vineet Chhabra owns 30% or more of, and is an officer or manager of, Kreating, LLC, a limited liability company organized under Florida law.

¹ Read and comply with the Definitions and Instructions that follow.

3. Dynamic Health of Florida, LLC, Chhabra Group, LLC, Chhabra Internet Support Center, LLC, Chhabra Fulfillment Services LLC (formerly known as Chhabra Internet Fulfillment Services, LLC), Kreating, LLC, and Metability of Florida, LLC are limited liability companies organized under Florida law.
4. Vineet Chhabra, individually or in concert with others, controls or has the ability to control the practices of Dynamic Health of Florida, LLC, Chhabra Group, LLC, Chhabra Internet Support Center, LLC, Chhabra Fulfillment Services LLC (formerly known as Chhabra Internet Fulfillment Services, LLC), Kreating, LLC, and Metability of Florida, LLC.
5. Kreating, LLC participated in creation or preparation of advertising, labeling, and packaging for Pedia Loss and Fabulously Feminine.
6. Chhabra Group, LLC coordinated media purchases in connection with the advertising for Pedia Loss and Fabulously Feminine and provided consulting services to one or more of the respondents and to DBS Laboratories, LLC in connection with the advertising and sale of Pedia Loss and Fabulously Feminine.
7. Metability of Florida, LLC provided web-hosting and software services to some of the websites that sold Pedia Loss and Fabulously Feminine.
8. Chhabra Internet Support Center, LLC operated a call center and provided customer service functions related to the sale of Pedia Loss and Fabulously Feminine.
9. Chhabra Fulfillment Services, LLC (formerly known as Chhabra Internet Fulfillment Services, LLC) provided fulfillment services for Pedia Loss and Fabulously Feminine.
10. On or about July 15, 2003, Chhabra International, Inc. entered into an agreement to

purchase a 75% interest in DBS Laboratories, LLC.

11. Vineet Chhabra was an owner, manager, or director of Chhabra International, Inc. when it entered into an agreement to purchase a 75% interest in DBS Laboratories, LLC.
12. One or more entities of which Vineet Chhabra was an owner, manager, or officer paid Jonathan Barash or DBS Laboratories, LLC for services performed by Mr. Barash in connection with bringing Pedia Loss and Fabulously Feminine to market.
13. Vineet Chhabra was an owner, director, or manager of one or more entities that distributed advertisements for Pedia Loss and Fabulously Feminine for posting on websites in which they appeared.
14. Advertising for Pedia Loss appeared in the July 2003 national edition of Cosmopolitan magazine.
15. During Fall 2003, advertising for Pedia Loss appeared on more than 25 internet sites, including the CVS Online Pharmacy web site, www.FeelingWell.com, www.pedialoss.com, www.dynamichealthproducts.com, www.dbslabs.com, www.prescriptionlife.com, www.usaprescription.com, www.atcostmeds.com, www.americanmedsrx.com, www.rapidpharmacy.com, www.24x7meds.com, www.24-hour-drug-store.com, www.medpharmacy.com, www.dbslabs.com, www.usarx.com, www.247drugstore.com, www.selectpharmacy.com, www.clickmeds.com, www.medprescribe.com, www.eprescribe.com, www.fastmedrx.com, www.epillshop.com, www.rxclinic.com, easyrxpharmacy.com, active-prescriptions.com, www.safewebmedical.com, and www.medpharmacyrx.com.
16. The daily dosage of Pedia Loss for children ages 6-10 (4 tablets) contains: 600 mg of

fructo-ogliosaccharides (FOS); 200 mg of inulin; 200 mg of l-glutamine; 100 mg of lecithin; 50 mg of hydroxycitrate extract (“HCA”); and 8 mg of citric acid.

17. The retail price for Pedia Loss (a package containing 120 tablets) was \$59.99 or \$69.99, depending on the retail outlet.
18. Respondents do not possess testing of the precise formulation in Pedia Loss that evaluates its efficacy for children’s weight loss, and respondents are not aware of the existence of any such testing.
19. Respondents do not possess any evidence that fructo-oligosaccharides, inulin, l-glutamine, lecithin, or citric acid cause weight loss in children.
20. Although the results of some clinical tests support the hypothesis that HCA causes weight loss, others do not.
21. The results of clinical tests that support the conclusion that HCA causes weight loss involved products supplying 750 or more mg of HCA per day, several times the amount of HCA in Pedia Loss.
22. Respondents do not possess any clinical tests conducted on overweight or obese children ages 6-10 that show that 50 mg per day of HCA causes weight loss in this population.
23. Respondents do not possess any clinical tests conducted on overweight or obese children ages 11-16 that show that 75 mg per day of HCA causes weight loss in this population.
24. Respondents sold approximately 272 units of Pedia Loss between August 2003, when sales began, and approximately December 2003.
25. Respondents stopped selling Pedia Loss after learning of the FTC staff investigation.
26. Advertising for Fabulously Feminine appeared in the July 2003 national issue of

- Cosmopolitan and in national issues of National Inquirer, National Examiner, Globe, Star, and Sun magazines disseminated in September, October, and November 2003.
27. Between September 2003 and January 2004, advertising for Fabulously Feminine appeared on more than 25 internet sites, including the CVS Online Pharmacy web site, www.FeelingWell.com, www.dynamichealthproducts.com, www.dbslabs.com, www.prescriptionlife.com, www.usaprescription.com, www.atcostmeds.com, www.americanmedsrx.com, www.rapidpharmacy.com, www.24x7meds.com, www.24-hour-drug-store.com, www.medpharmacy.com, www.dbslabs.com, www.usarx.com, www.247drugstore.com, www.selectpharmacy.com, www.clickmeds.com, www.medprescribe.com, www.eprescribe.com, www.fastmedrx.com, www.epillshop.com, www.rxclinic.com, easyrxpharmacy.com, active-prescriptions.com, www.safewebmedical.com, and www.medpharmacyrx.com.
 28. The retail price for a package of Fabulously Feminine (120 capsules) was \$39.95 or \$49.99, depending upon the retail outlet.
 29. A daily dosage of Fabulously Feminine (4 tablets) contains the following ingredients: 1000 mg l-arginine; 500 mg horny goat weed (*epimedium sagattatum*); 250 mg maca tuber; 150 mg catuaba bark; 150 mg muira puama bark 4:1 extract; 50 mg American ginseng; 50 mg damiana leaf 4:1 extract; 30 mg ginkgo biloba leaf; plus inactive excipients.
 30. Respondents did not possess and are not aware of any testing on the precise formulation in Fabulously Feminine that evaluates whether it has any impact of female sexual health.
 31. When respondents disseminated advertising stating that “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,” the study referred to was the one published as: T.Y. Ito, A.S. Trant, M.L. Polan, *A Double-Blind Placebo-Controlled Study of ArginMax, a Nutritional Supplement for Enhancement of Female Sexual Function*, *Journal of Sex & Marital Therapy*, 27(5):541-49 (2001).

32. The clinical testing reported in the study authored by T.Y. Ito and others, identified in Admission Number 31, does not prove that Fabulously Feminine enhances a woman’s satisfaction with her sex life and level of sexual desire, when supplemented with a multivitamin.
33. Aside from the study authored by T.Y. Ito and others, identified in Admission Number 31, respondents do not possess and are not aware of any clinical testing conducted on women that evaluates the efficacy of one or more ingredients in Fabulously Feminine for improving libido, sexual desire, or sexual satisfaction.
34. Respondents began selling Fabulously Feminine in August 2003 and ceased selling it in approximately January 2003, during which time they sold approximately 372 units of the product.
35. The representations challenged in ¶¶ 9 and 10 of the Commission’s Complaint, if made, would be important to a consumer’s decision to purchase or use Pedia Loss.
36. The representations challenged in ¶¶ 13, 15, and 16 of the Commission’s Complaint, if made, would be important to a consumer’s decision to purchase or use Fabulously Feminine.

37. Dynamic Health of Florida, LLC advertised and sold other products, including:
 - a. four dietary supplements (Fat Fighter, Carb-Control, Apimin-AM, Apimin-PM, and Thermo Lean) bearing the phrase “weight loss” on their labels,
 - b. two dietary supplements (Masculine Male and Arginine Plus) bearing the phrase “libido enhancer” on their label,
 - c. additional supplements promoted for digestion and acid reflux, colds and flu, or as sleep aids; and
 - d. a diagnostic product promoted to detect ovulation.
38. Respondents possessed no clinical studies on the precise formulations contained in the products identified in Admission 37a when they were advertised by Dynamic Health of Florida, LLC.
39. Vineet Chhabra was an owner, operator, corporate officer and/or director of businesses that operated websites through which he and others distributed and dispensed prescription drugs, including controlled substances.
40. Pedia Loss, Fabulously Feminine, and other dietary supplements promoted by respondents also were advertised on and offered for sale through many, if not all, of the web sites referred to in Admission 39.
41. Vineet Chhabra developed his dietary supplement business in part to expand the offerings available through the websites referred to in Admission 39.
42. Vineet Chhabra and Chhabra Group LLC have entered guilty pleas in a Federal Court proceeding on criminal charges that they violated the Controlled Substances Act in connection with sales of controlled substances through the websites referred to in

Admission 39.

43. Arent Fox did not state to respondents, or any agent of respondents, that the ads for Pedia Loss and Fabulously Feminine complied with, or did not violate, the FTC Act.
44. Arent Fox did not state to respondents, or any agent of respondents, that competent scientific substantiation supported the claims made in the advertising for Pedia Loss and Fabulously Feminine.
45. Dr. Alberto Guzman did not state to respondents, or any agent of respondents, that competent scientific evidence supported the conclusion that Pedia Loss causes weight loss in children.
46. DBS 1034-1161, a document that bears that headings “Revision by Dr. Alberto Guzman” and dated 6/15/2003, states as follows at DBS 1142 (with footnotes omitted):

“Preliminary research in the laboratory and in animal research, suggests that HCA may be a useful weight loss aid. HCA has been demonstrated in the laboratory (but not yet in trials with people) to reduce the conversion of carbohydrates into stored fat by inhibiting certain enzyme processes. Animal research indicates that HCA suppresses appetite and induces weight loss. One case found that eating 1 gram of the fruit containing HCA before each meal resulted in the loss of 1 pound per day. A double-blind trial that provided either 1,500 mg of HCA or a placebo per day to 135 overweight men and women, who also were on a calorie-restricted diet, found after 12 weeks that the HCA supplementation did not produce a significant change in weight loss. Uncontrolled and/or preliminary evidence from several other human trials suggests the possibility that weight loss might occur;

however, none of these studies is as methodologically strong as the negative trial previously mentioned. These less-rigorous studies used a similar calorie-restricted diet and a similar amount of HCA as the negative trial. However, the double-blind study used a high-fiber diet not used in the prior studies. It has been suggested that such a diet might limit absorption of HCA. Future studies that measure blood levels of HCA (to check whether or not the supplement was absorbed) are necessary to resolve this issue. At the present time, the effectiveness of HCA for weight loss remains unclear and unproven.”

47. One or more of the respondents possessed a copy of DBS 1142 when they disseminated advertising and labeling for Pedia Loss.

II DEFINITIONS

1. “**Arent Fox**” means the law firm of Arent Fox Kintner Plotkin & Kahn, PLLC, its wholly or partially owned subsidiaries, parent companies, unincorporated divisions, joint ventures, partnerships, operation under assumed names, predecessors, affiliates, and all directors, officers, partners, employees, agents, attorneys, consultants, franchisees, independent distributors, and any other **person** or entity, working for or on behalf of the foregoing at any time, **including** but not limited to Brian P. Waldman and James A. Kaminski.

2. “**Advertising**” includes any written or oral statement, advertisement, illustration, or depiction that is designed to effect a sale or create interest in the purchasing of goods or services, whether the same appears in a press release, video news release, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, stickers, free standing insert, letter,

catalogue, poster, chart, billboard, packaging, package insert, package label, public transit card, point of purchase display, promotional materials, film, slide, radio or television broadcast or transmission, Internet or World Wide Web site, streaming video, electronic mail, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, or publication or broadcast in any other medium.

3. **“Respondents”** means Dynamic Health of Florida, LLC, Chhabra Group, LLC, and Vineet K. Chhabra a/k/a Vincent Chhabra.

III INSTRUCTIONS

1. For the purposes of this request, each paragraph and subparagraph constitutes a separate statement and is to be admitted or denied separately.
2. Pursuant to Rule 3.32, you must specifically admit or deny the requested admission, or set forth in detail the reasons why you cannot admit or deny the matter. A denial must fairly meet the substance of the requested admission, and when good faith requires that you qualify your answer or deny only a part of the requested admission, you must specify what portion of it is true and qualify or deny the remainder. In addition, you may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny.
3. Rule 3.32 (b) requires that your responses be sworn to under oath.
4. It is not grounds for objection that the requested admission relates to opinions of fact or the application of law to fact. Your belief that the matter on which an admission is

requested presents a genuine issue for trial does not, on that ground alone, provide a valid basis for objection.

CERTIFICATE OF SERVICE

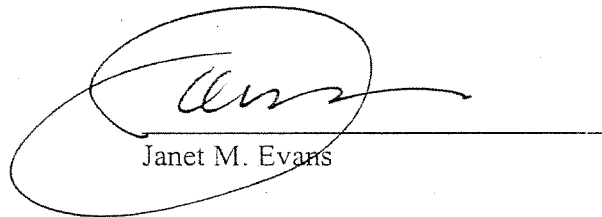
I hereby certify that I have this 2nd day of November, 2004 filed and served the attached

COMPLAINT COUNSEL'S REQUEST FOR ADMISSIONS BY RESPONDENTS

on the following as set forth below:

- (1) one (1) electronic copy via email and one (1) copy via overnight delivery service to:

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