

ORIGINAL



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13 **IN THE UNITED STATES OF AMERICA**
14 **BEFORE THE FEDERAL TRADE COMMISSION**
15 **OFFICE OF ADMINISTRATIVE LAW JUDGES**

16 **In the Matter of**) **Docket No.: 9329**
17 **DANIEL CHAPTER ONE,**)
18 **a corporation, and**)
19 **JAMES FEIJO,**) **PUBLIC DOCUMENT**
20 **individually, and as an officer of**)
21 **Daniel Chapter One**)
22)
23)
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29 **RESPONDENTS' OBJECTION AND MEMORANDUM IN OPPOSITION TO**
30 **COMPLAINT COUNSEL'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

31 **INTRODUCTION**

32 Respondent Daniel Chapter One is a religious ministry organized and recognized as a
33 corporation sole under the laws of Washington State.¹ Respondent James Feijo is Overseer of the

34 ¹ See Washington State recognition of Daniel Chapter One as a corporation Sole at Exhibit 1.

1 Chapter Daniel One corporation sole in accordance with the laws of Washington State.² As part
2 of its ministry work Daniel Chapter One offers dietary supplements products to people interested
3 in obtaining them. Both Respondents assert that the activity they engaged in complies with rules
4 set by the Federal Trade Commission to the extent that those rules are permitted by the First
5 Amendment of the US Constitution.

6
7 The Daniel Chapter One ministry began in the early 1980's as part of the worldwide
8 home ministry movement which provided Bibles to religious groups that met in individual
9 homes in communist countries. In addition to developing their ministry in the United States
10 James and Patricia Feijo traveled to Poland, East Germany and China among other countries
11 including being present at the collapse of the Berlin Wall and joining the demonstrations at
12 China's Tiananmen Square. In fact the Chinese authorities confiscated bibles from Jim Feijo
13 because distributing Bibles violated Chinese laws.

14
15 Before creating Daniel Chapter One James Feijo worked as a school teacher and sports coach in
16 high schools in Rhode Island. He was inducted two times into the Durfee High School Athletic
17 Hall of Fame and has coached—including advice on nutrition and exercise—a number of
18 prominent professional and armature athletes. Before joining Daniel Chapter One Patricia Feijo
19 worked, as a lab technician in Experimental Oncology (1978-1981), at Mason Research in
20 Worcester, Mass. She administered chemotherapeutic agents to mice in the assays, and later
21 worked as head of surgery (mice and rats). She then worked with nude mice at Mason Research
22 (mice bred to have no immune system) in conjunction with UMass Hospital in Worcester, Mass.
23 where they tested the experimental drugs on human patients. Subsequently she became a trained
24 and certified lay homeopath.

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26 As their ministry developed, including launching a two hour daily radio broadcast on
27 nutrition and health, they learned that many of the people they interacted with suffered from a

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² See sec of Washington State law at Exhibit 2.

1 variety of health problems. They found that their belief in the bible and personal experience with
2 health and nutrition offered these people who shared their personal vision expanded
3 opportunities—explicitly other than drugs, radiation and surgery—to address their health
4 problems. Between 1986 and the present hundreds of individuals have sought and used the
5 guidance, including advice and dietary supplement products, of Daniel Chapter One. In that time
6 Daniel Chapter One has received no complaints—indeed they have received hundreds of thank
7 yous for improved health from users of their advice and products.
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10 Respondents claim that they are a religious ministry engaged in a national debate raising
11 questions about the nature of health and the rights of individuals to addresses their well being
12 using methods in addition to or other than drugs, radiation and surgery. They claim that they
13 have a right to withhold the financial documents sought in requests for documents #22 and #23.
14 Complaint counsel says he must have access to these financial documents in order to determine
15 whether or not Respondents have a right to withhold them. This is a tautological argument that
16 is unsound and should be rejected for the reasons setout in the argument below.
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19 ARGUMENT

20 21 **I. MOTION TO COMPEL DOCUMENTS #22 AND #23 – BURDENSOME AND IRRELEVANT.**

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23 Both Respondents argue that complaint counsel's requests for production of documents
24 #22 and #23, and all other requests for financial records, documents or other financial material
25 seek information that is irrelevant to the FTC inquiry into the claims made for dietary
26 supplements available from Respondents. Respondents do not dispute that to the extent that they
27 label or advertise products such information must, as the law requires, be neither false nor
28 misleading and both argue that they did not provide false or misleading information in making

1 their advice and products available. The records sought do not add to complainant's efforts to
2 address the questions raised by its complaint.
3

4 At the same time forcing the release of these documents unduly burdens respondents
5 rights a religious ministry to maintain the secrecy of their financial records. In the development
6 of the Daniel Chapter One ministry Overseer James Feijo has adhered to Matthew Chapter 6,
7 verses 1-4 of the Christian New Testament. Those verses say: "Be careful not to do your acts
8 of righteousness before men, to be seen by them. If you do, you will have no reward from your
9 Father in heaven. So when you give to the needy, do not announce it with trumpets, as the
10 hypocrites do in the synagogues and on the streets, to be honored by men. I tell you the truth,
11 they have received their reward in full. But when you give to the needy, do not let your left hand
12 know what your right is doing, so that your giving may be done in secret. Then your Father, who
13 sees what is done in secret, will reward you."
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16
17 "Secret" about resources is a core value of Daniel Chapter One. Overseer James Feijo
18 does not know the income or outgo of the ministry. He knows when bills need to be paid and
19 pays them and when resources are needed he and other followers of the community pray for new
20 resources. In this manner the ministry has thrived, often starting on a journey or a project with
21 no visible means of support, for a quarter of a century.
22

23 Respondents argue that they have complied with the law's requirements that they not
24 present false or misleading information in the presentation of their advice and products to the
25 people who use them. The financial records sought do not change what is the focus of this
26 proceeding. They also argue that providing the information sought violates their rights as a
27 religious ministry engaged in a public debate as set out in the arguments that follow.
28

1 **II. THIS ADMINISTRATIVE COURT HAS NO JURISDICTION TO**
2 **COMPEL PRODUCTION OF THE REQUESTED DOCUMENTS.**

3 Complaint Counsel's Motion to Compel Production of Documents # 22 and # 23 ("CC
4 Motion to Compel") rests entirely upon the faulty premise that the Federal Trade Commission
5 ("FTC") has jurisdiction over Daniel Chapter One as if it were solely a commercial enterprise,
6 wrongly ignoring the fact that Daniel Chapter One is a religious ministry engaged in protected
7 First Amendment religious, speech, association and press activities concerning healthcare
8 matters of great public importance, matters completely outside the jurisdiction of the FTC. *See*
9 *Administrative Compl. Paras. 1-5.* Complaint Counsel states that he seeks Respondents'
10 "financial records" because: (a) they "bear directly on Respondents' efforts to shield their
11 conduct from scrutiny of the First Amendment;" and (b) "[e]xamining the financial records of
12 Respondent will help enable Complaint Counsel, and eventually this Court, to assess the strength
13 of Respondent's First Amendment claims." CC Motion to Compel, p. 4. Neither claim would
14 justify this Court ordering production. To the contrary, the granting of any such requested order
15 on such grounds would itself violate Respondents' freedoms of religion, speech, association, and
16 press, as protected by the First Amendment.
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20 **A. Complaint Counsel's Motion is Based Upon an Erroneous Assumption That**
21 **Commercial Speech Is Not Protected by the First Amendment.**

22 According to Complaint Counsel, "the FTC maintains that [Respondents'] conduct is
23 commercial speech," *vel non*, and, by implication, outside the protection of the First
24 Amendment. (CC Motion to Compel, pp. 3-4.) Complaint Counsel's assumption is mistaken.
25

26 As the United States Supreme Court has consistently ruled since Virginia Bd. of
27 Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748 (1976), commercial speech
28 receives First Amendment protection unless, "as a threshold matter ... the commercial speech

1 concerns unlawful activity or is misleading.” See Thompson v. Western States Med. Ctr., 535
2 U.S. 357, 366-67 (2002). As a threshold matter, the administrative complaint contains no factual
3 predicate upon which to rest its claim that Respondents’ speech is either commercial in nature,
4 much less that it is unlawful per se or misleading. See Admin. Compl., para. 5. Rather, the
5 complaint is based upon the faulty assumption that Respondents have a duty to have included in
6 their promotional materials the “reasonable basis” upon which they were making their health
7 claims. See Admin. Compl., paras. 15 and 16. Nor does the administrative complaint lay down
8 any factual predicate that, even if Respondents’ speech is commercial, but not unlawful or
9 misleading, it is not protected by the First Amendment on grounds that the FTC’s effort to
10 regulate that speech is in pursuit of a “substantial” governmental interest, and not more extensive
11 than necessary to advance that interest, as required by the First Amendment. *Id.*, 535 U.S. at
12 367.

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16 Unless Complaint Counsel makes such a prima facie showing, it may not justify its
17 motion to compel production of Respondents’ financial records. As the Supreme Court has
18 consistently held, the government has the burden of showing that the speech in question is not
19 protected by the First Amendment. See Illinois, ex rel Madigan v. Telemarketing Associates,
20 Inc., 538 U.S. 600, 620 n.9 (2003). Otherwise, the granting of such a request would violate the
21 foundational principle of the First Amendment commercial free speech doctrine “that the speaker
22 and the audience, not the government, assess the value of the information presented” by
23 Respondents. See Edenfield v. Fane, 507 U.S. 761, 767 (1993).

24
25 **B. Complaint Counsel’s Motion is Based Upon the Erroneous Assumption that**
26 **Respondents’ Speech Deserves Only the First Amendment Protection**
27 **Afforded Commercial Speech.**
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1 As noted above, “[t]he FTC maintains that [Respondents’] conduct is commercial
2 speech.” Indeed, by its complaint, the FTC has reduced Respondents’ activities to
3 communications that do no more than propose a commercial transaction. Admin. Compl., Paras.
4 5-14. While even such communications are “entitled to the coverage of the First Amendment”
5 under the Supreme Court’s commercial speech doctrine,³ Respondents’ promotional materials
6 related to Daniel Chapter One’s products cannot be isolated from its overall religious ministry of
7 health freedom and healing. Rather, those promotional materials are an integral part of Daniel
8 Chapter One’s informational campaign to educate the public on nutrition, herbal, and other
9 dietary alternatives to the pharmaceutical-drug-based medical care system endorsed and
10 subsidized by the Food and Drug Administration and other governmental agencies. *See*
11 www.danielchapterone.com.

14 Complaint Counsel’s motion to force Respondents to disclose their financial records is
15 designed to cut off the funds necessary for Respondents who — like those whose efforts helped
16 launch the 1960’s civil rights movement — are desirous to communicate “information, express[]
17 opinions, recite[] grievances, protest[] claimed abuses, and [seek] financial support on behalf of a
18 movement whose existence and objectives are matters of highest public interest and concern.”
19 *See New York Times Co. v. Sullivan*, 376 U.S. 254, 266 (1964). And the FTC effort to cut off
20 Respondents’ source of funds is like those efforts in the 1960’s to cut off paid advertisements in
21 national media outlets which, if successful, “might shut off an important outlet for the
22 promulgation of information and ideas by persons who do not themselves have access to
23 publishing facilities” of those who oppose them. *Id.* As the Supreme Court observed, “[t]he
24 effect would be to shackle the First Amendment in its attempt to secure ‘the widest possible
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³ *See Edenfield*, 507 U.S. at 767.

1 dissemination of information from diverse and antagonistic sources.” *Id.* Thus, the Court
2 pronounced that even “libelous statements” that would “otherwise be constitutionally protected
3 ... do not forfeit that protection because they were published in the form of a paid
4 advertisement.” *Id.*

6 For like reasons, Respondents’ allegedly deceptive statements about Daniel Chapter
7 One’s alternative nutritional and herbal products cannot serve as a basis for claiming that
8 Respondents have forfeited the constitutional protection otherwise afforded Respondents’
9 general informational activities. Indeed, in a recent case involving a business corporation
10 charged with violation of state prohibitions against unfair and deceptive practices and false
11 advertising, Supreme Court Justice John Paul Stevens observed that where communications are a
12 “blending of commercial speech, noncommercial speech and debate on an issue of public
13 importance,” “[t]he interest in protecting [the communicators] from the chilling effect of the
14 prospect of expensive litigation is ... a matter of great importance.” *See Nike, Inc. v. Kasky*, 539
15 U.S. 654, 663-64 (2003) (*per curiam* opinion dismissing writ of certiorari as improvidently
16 granted, Stevens, J., concurring). Thus, Justice Stevens suggested that, in such cases, statements
17 made about products might deserve the kind of First Amendment protection afforded “for
18 misstatements about public figures that are not animated by malice.” *Id.* at 664.

22 Clearly, such protection is appropriate in this case. Complaint Counsel has made no
23 claim whatsoever that Respondents’ statements about Daniel Chapter One’s products were made
24 with malice, *i.e.*, with knowledge and intent to present false information, or in reckless disregard
25 of their truth or falsity. *See Admin. Compl.*, Para. 15-16. Moreover, the Supreme Court
26 extended such First Amendment protection to the participants in the civil rights movement in
27 *New York Times v. Sullivan*, 376 U.S. at 279-80. Comparable protection is warranted here,
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1 particularly in light of the absence of any allegation in the administrative complaint that anyone
2 has actually been injured by Respondents' products. See Gertz v. Robert Welch, Inc., 418 U.S.
3 323 (1974).

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5 **C. As an Integral Part of a Prolonged Administrative Process, Complaint
6 Counsel's Motion Operates as an Unconstitutional Prior Restraint.**

7 In Nike, Justice Stevens observed that "novel First Amendment questions [would be
8 presented by] speech [that] blend[s] commercial speech, noncommercial speech and debate on an
9 issue of public importance." Nike, 539 U.S. at 663. As Justice Stevens also observed, Nike
10 faced "expensive litigation" over whether its statements constituted unfair and deceptive
11 business practices and false advertising which put a "chilling effect" on Nike's communicative
12 activities. *Id.* at 664. Likewise, here, Respondents face extensive and expensive litigation before
13 this administrative agency during which time Respondents have no opportunity to put their First
14 Amendment speech and press claims before an Article III judicial tribunal.

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16 In his motion to compel, Complaint Counsel has contended that the financial records that
17 the FTC seeks "will help enable Complaint Counsel, and eventually this Court, to assess the
18 strength of Respondents' First Amendment claims." CC Motion to Compel, p. 4. It is one thing
19 for one's First Amendment rights to be assessed by an administrative agency charged with the
20 enforcement of a statute; it is quite another to have such a claim of right resolved by an impartial
21 judicial tribunal. Thus, the Supreme Court has for many years imposed a rule that assures
22 "prompt judicial determination" of a First Amendment claim in a "censorship proceeding." See
23 Freedman v. Maryland, 380 U.S. 51, 57, 60 (1965).

24
25 While it may be true that federal law does not require a license from the FTC or other
26 government agency before Daniel Chapter One may publish promotional materials related to the
27 products at issue, Respondents nevertheless face the prospect of a cease and desist order that
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1 would establish the FTC as censor of what Respondents may communicate in the future about
2 these products, including a requirement that such communications be based upon competent and
3 reliable scientific evidence that substantiates the representation as determined by the FTC or
4 prior approval of the federal Food and Drug Administration. *See* Admin. Compl., Order, Paras.
5 I, II, and III. According to Complaint Counsel’s Motion to Compel, however, Respondents’
6 First Amendment claims “will help enable Complaint Counsel, and [the administrative judge], to
7 assess the strength of [those] claims.” CC Motion to Compel, p. 4. In the meantime, the
8 governing statutes provide no avenue for Respondents to present their First Amendment claims
9 to an Article III Court until after the administrative process runs its course. Even then, such
10 claims must be based upon the administrative record, not on evidence presented in an Article III
11 judicial proceeding. *See* 15 U.S.C. Section 45(c) and (d).

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14 In Waters v. Churchill, 511 U.S. 661 (1994), the Supreme Court “agree[d] that it is
15 important to ensure not only that the substantive First Amendment standards are sound, but also
16 that they are applied through reliable procedures,” including “allocation of the burden of proof, a
17 particular quantum of proof, a particular type of appellate review ... to be constitutionally
18 required in proceedings that may penalize protected speech.” *Id.* at 669. While the Waters Court
19 did not lay down a definitive rule when a prescribed procedure may be constitutionally
20 insufficient to safeguard First Amendment rights, it did state that First Amendment procedural
21 safeguards are not limited to “licensing schemes” such as the one in Freedman.

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24 And for good reason. Censorship, whether or not imposed as a precondition before any
25 communication is made, operates as a prior restraint. And if that censorship is not strictly
26 limited to unprotected speech, then it violates the freedom of the press. *See, e.g., Lovell v.*
27 Griffin, 303 U.S. 444 (1938). Respondents’ free speech claim should not, as it is in this case, be
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1 relegated to an administrative process that provides no access to an impartial judicial review until
2 after the administrative process has run its course. After all, the FTC is not constrained by a
3 statute limiting its powers to “content-neutral” principles of “time, place, and manner,” as was
4 the case in Thomas v. Chicago Park District, 534 U.S. 316 (2002). Rather, as in Freedman, the
5 FTC has been clothed with the power to “censor” if it finds that a particular promotional
6 communication is “unfair or deceptive” (*see* 15 U.S.C. Section 45(a)(1)), and thereby, is likely to
7 “overestimate the dangers of [unfair or deceptive] speech when determining, without regard to
8 [its] actual effect on an audience, whether speech is likely to [deceive].” *See Thomas v. Chicago*
9 *Park District*, 534 U.S. at 321-22.

12 In sum, the FTC administrative process is not suited to assess the sufficiency of any
13 asserted government interest justifying the imposition of the kinds of prior restraints upon Daniel
14 Chapter One’s promotional and informational materials included in the proposed Order attached
15 to the Complaint. To the contrary, the government interest in protecting the people from “unfair
16 and deceptive” practices and false advertising is not of the highest order necessary to justify a
17 court injunction against Respondents’ speech, much less one issue by an administrative agency.
18 *See New York Times v. United States*, 403 U.S. 713, 725-27 (1971) (Brennan, J., concurring).
19 *See also Near v. Minnesota*, 283 U.S. 697, 716 (1931).

22 The limits on this administrative process to determine the question placed before it by
23 complaint counsel are underscored by 15 USC §45(n) which says: “The Commission shall have
24 no authority under this section or section 57a of this title to declare unlawful an act or practice on
25 the grounds that such act or practice is unfair unless the act or practice causes or is likely to
26 cause substantial injury to consumers which is not reasonably avoidable by consumers
27 themselves and not outweighed by countervailing benefits to consumers or to competition. In
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1 determining whether an act or practice is unfair, the Commission may consider established
2 public policies as evidence to be considered with all other evidence. Such public policy
3 considerations may not serve as a primary basis for such determination.”
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6 **D. With Respect to Document Request No. 23, Complaint**
7 **Counsel’s Motion Operates as an Unconstitutional**
8 **Infringement upon the Freedom of Association of Daniel**
9 **Chapter One and Its Members.**

10 As noted above, Complaint Counsel’s motion, and the administrative complaint itself, are
11 predicated on the erroneous premise that Daniel Chapter One is engage in an ordinary
12 commercial enterprise, consisting solely of the sale of products and services. Pursuant to this
13 mistaken predicate, Complaint Counsel’s document request No. 23 seeks financial information,
14 the production of which would reveal to the FTC names and addresses of persons from whom
15 Daniel Chapter One has received monies, as if those receipts are the fruit of a purely commercial
16 transaction.
17

18 Daniel Chapter One is not, however, a business corporation. Rather, it is a nonprofit
19 corporate sole, the articles of which identify it as a “sovereign church,” deriving all of its
20 “powers of existence from Our Creator, the Lord God Almighty and The Lord Jesus Christ.”
21 Thus, those who provide funds to Daniel Chapter One are **not** ordinary commercial purchasers,
22 but members of a sovereign religious assembly dedicated to the mutual promotion of healthcare
23 freedom and healing according to the laws of God. *See* Articles 2 and 3, Articles of
24 Incorporation.
25

26 In light of the religious nature of the Daniel Chapter One mission, Complaint Counsel’s
27 request Number 23 seeks financial information that is, by design and in effect, a request for
28 Daniel Chapter One’s active membership list. As such, if disclosure of the information

1 appearing on “third party checks, cashier’s checks, money orders [and] other financial
2 instruments” is compelled, it would “abridge the rights of [Daniel Chapter One’s] rank-and-file
3 members to engage in lawful association in support of their common beliefs.” *See NAACP v.*
4 *Alabama*, 357 U.S. 449, 460 (1958). As the Supreme Court “recognized” in the Alabama
5 NAACP case, there is “vital relationship between freedom to associate and privacy in one’s
6 association.” *Id.*, 357 U.S. at 462.

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8 As Respondents have indicated in their Response to Interrogatory Number 32 in
9 Complaint Counsel’s First Set of Interrogatories, Daniel Chapter One members face opposition
10 from practicing physicians who oppose Daniel Chapter One’s natural healing ministry. Such
11 opposition is enhanced by the very action taken by the FTC in this matter, thereby creating an
12 unconstitutional deterrent effect upon Daniel Chapter One’s associational activities with its
13 members. *See NAACP*, 357 U.S. at 461-63.

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16 **E. Complaint Counsel’s Motion is Predicated Upon an Administrative**
17 **Complaint That, on its Face, Constitutes Both an Unconstitutional**
18 **Establishment of Religion and a Prohibition of the Free Exercise Thereof.**

19 In *United States v. Ballard*, 322 U.S. 78 (1944), the United States Supreme Court ruled
20 that the First Amendment guarantees of freedom of religion precluded the prosecution of a mail
21 fraud indictment based upon allegations that the defendant was promoting false beliefs. Among
22 the promoted beliefs that the government had contended to be false was “the power to heal
23 persons of ailments and diseases ... normally classified as curable, and also of diseases which are
24 ordinarily classified by the medical profession as being incurable.” *Id.*, 322 U.S. at 80. At issue
25 in the case, the Court concluded, was “the truth or verity of ... religious doctrines,” which, in
26 turn, the Court ruled to be a “forbidden domain.” *Id.*, 322 U.S. at 86-87.

1 Similarly, the administrative complaint in this case charges Respondents with engaging in
2 “deceptive acts or practices in connection with the advertising, promotion, offering for sale, and
3 distribution of DCO Products which purport to prevent, treat, or cure cancer or tumors, and other
4 serious medical illnesses.” Administrative Complaint, Para. 5. According to the complaint, the
5 allegedly deceptive promotional materials “expressly or by implication” contained
6 “representations” that were “substantiated” upon a “reasonable basis,” whereas “in truth and in
7 fact, Respondents did not possess and rely upon a reasonable basis that substantiated the
8 representations [and] [t]herefore, the representation ... was, and is unsubstantiated.” Admin.
9 Compl. Paras. 15-16. Finally, according to the proposed Order attached to the administrative
10 complaint, in order for any promotional material to be based upon reasonable substantiation, it
11 must be based “upon competent and reliable scientific evidence.” Admin. Compl. Order, Paras. I
12 and II.

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15 In short, the administrative complaint charges that Respondents’ promotional materials
16 had no “reasonable basis” because they did not accord with reason as defined by science. Thus,
17 the Complaint discounts personal healing testimony — in support of the representation that 7
18 Herb Formula battles cancer — as absolutely irrelevant to the question whether there was a
19 “reasonable basis” for such a representation solely because such a testimony is not based upon
20 “competent and reliable scientific evidence.” See Compl. Paras. 9B, 14, and 15 and attached
21 Order Paras. I and II. In other words, Respondents stand charged with having committed
22 “heresy,” in violation of the empirical faith of modern science. In one fell swoop, complainant
23 has dismissed out of hand the testimonial base upon which Respondents rely for the promotion
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1 of their products,⁴ not on the basis of reasoned analysis, but solely as a matter of unsubstantiated
2 faith.

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4 But, as the United States Supreme Court stated in Ballard, the First Amendment
5 precludes such governmental action: ““The law knows no heresy, and is committed to the
6 support of no dogma...””:

7 It embraces the right to maintain theories of life and death ... which
8 are rank heresy to followers of the orthodox faiths. Heresy trials
9 are foreign to our Constitution. Men may believe what they cannot
10 prove. They may **not be put to the proof** of their **religious**
11 **doctrines or beliefs**. Religious experiences which are as real as
12 life to some may be incomprehensible to others. Yet the fact that
13 they may be beyond the ken of mortals does not mean that they can
14 be made **suspect before the law**. [*Id.*, 322 at 86-87.]

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16 The administrative complaint would have this Court believe that Respondents are
17 engaged in an ordinary commercial business, not in a religious ministry. *See Admin. Compl.*,
18 Paras. 1-5. But that is not the case. Incorporated in the State of Washington, Respondent Daniel
19 Chapter One is “a private corporate sole,” recognized by the state as a “viceregent of the
20 Sovereign Creator..., deriving its powers of existence from our Creator, the Lord God Almighty
21 and the Lord Jesus Christ.” Articles of Corporation Sole and Charter for Daniel Chapter One
22 (hereinafter “Corp. Art.”), Introduction. Respondent James Fiejo is the duly appointed
23 “Overseer,” having “canonically taken possession of this responsibility ... in accordance with the
24 discipline Daniel Chapter One of a sovereign church and an unincorporated sovereign religious
25 assembly.” *Id.* Both are “joyfully submit[ted] to the Headship of the Lord God’s Sovereignty
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4 *See DanielChapterOne.com Home Page: “Testimonies.”*

1 and seek[] first His Kingdom and His Righteousness” and dedicated to “worthwhile projects for
2 the common good.” *Id.*, Arts. 2 and 3.

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4 In accordance with these articles, Respondents promote healthcare freedom providing
5 alternative healthcare information and teachings based upon available natural healing products
6 revealed by The Creator of the world as witnessed to by personal testimonies. Indeed, by taking
7 the name of Daniel Chapter One, Respondents invoke the Biblical narrative of health and
8 nutrition where the Hebrew prophet Daniel refused the government dietary and health orders of
9 the Babylonian King Nebuchadnezzar. *Daniel* 1:1-5, 8. Instead, Daniel and his three
10 companions freely chose a divinely-revealed sustenance regime, the consequence of which
11 produced in them better health than the government-prescribed regimen. *Daniel* 1:11-16. This
12 account, thus, serves as the very foundation upon which Respondents’ rest their healthcare
13 products. For example, on Daniel Chapter One’s Website Home page, the reader is directed to a
14 its promotional of BioMolecular Nutrition, which bases the Daniel Chapter One’s “instant
15 bioavailability” case for natural foods on the Biblical account of the ravens supernaturally
16 feeding the prophet Elijah during a time of famine and drought. *See 1 Kings* 17:6.

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19 According to the proposed Order accompanying the administrative complaint, however,
20 Daniel Chapter One would be required to abandon Daniel’s example of free choice and conform
21 its religious beliefs and teachings about health and nutrition, and its products promoted in
22 pursuance of them, to the secular standards and mandates set by the United States Government’s
23 Federal Trade Commission and Food and Drug Administration (FDA), as if the “scientific”
24 knowledge of FTC and FDA officials were superior to the supernatural revelation of God
25 Almighty. *Compare* Admin. Compl. Order, Paras. I, II and III. *with*
26 http://dclpages.com/danielchapterone/index.php?option=com_content&task=view&id=2.
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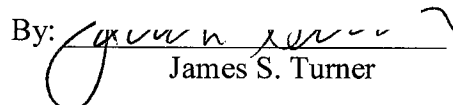
1 In sum, the Complainant's Motion for Production, like its underlying complaint, is
2 erroneously premised upon the power of the federal government to impose a modern "scientific"
3 orthodoxy concerning healthcare upon the people of the United States. Not only is such a
4 blatantly discriminatory effort a violation of the free exercise guarantee of the First Amendment,
5 but, by wedding its claim that "reasonableness" of any healthcare claim made by Respondents
6 must conform to "competent and reliable scientific evidence," the administrative complaint
7 herein would run afoul of the "no establishment" guarantee, having established "scientism," that
8 is "the belief that only [the scientific method] can fruitfully be used in the pursuit of knowledge."
9 Webster's Third International Dictionary, p. 2033 (1964). Such a belief system, even though it
10 may not be viewed by the federal government to be a religious one, is nonetheless a "religion"
11 within the meaning of the First Amendment. See Torcaso v. Watkins, 367 U.S. 488, 495 n. 11
12 (1961).
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18 Dated this 29th day of December, 2008,

19 Michael McCormack
20 Attorney for Respondents

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Attorneys for Respondents

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Exhibit “1”

STATE of WASHINGTON



SECRETARY of STATE

I, SAM REED, Secretary of State of the State of Washington and custodian of its seal,

hereby issue this

CERTIFICATE OF EXISTENCE/AUTHORIZATION

OF

DANIEL CHAPTER ONE

I FURTHER CERTIFY that the records on file in this office show that the
above named corporation sole was formed under the laws of the
State of Washington and was issued a Certificate of Incorporation
in Washington on October 30, 2002.

I FURTHER CERTIFY that as of the date of this certificate, no Articles of Dissolution
have been filed, and that the corporation is duly authorized to
conduct affairs in the corporate form in the State of Washington.



Date: October 30, 2002

*Given under my hand and the Seal of the State
of Washington at Olympia, the State Capital*


Sam Reed, Secretary of State

STATE of WASHINGTON



SECRETARY of STATE

I, *SAM REED*, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

ARTICLES OF INCORPORATION

to

DANIEL CHAPTER ONE

a Washington Corporation Sole. Articles of Incorporation were filed for record in this office on the date indicated below.

UBI Number: 602 245 097

Date: October 30, 2002



*Given under my hand and the Seal of the State
of Washington at Olympia, the State Capital*

Sam Reed, Secretary of State

602-245-097

FILED -
SECRETARY OF STATE

OCT 30 2002

STATE OF WASHINGTON

Articles of Corporation Sole and Charter

For

Daniel Chapter One

-a private religious corporation sole-

Important Notice:

It is unlawful for Washington State ¹ to incorporate a church. In keeping with Article 1 of the Bill of Rights amendments to the Constitution for the united States of America, regarding the establishment and free exercise of religion, this corporation sole is not, and cannot be, a creation of Washington state or any other State or state. The filing of this written instrument with the office of Secretary of State of Washington is for the purpose of notification only of this lawful entity as a vicegerent of the Sovereign Creator. **Daniel Chapter One** corporation sole, derives its powers of existence from Our Creator, The Lord God Almighty and The Lord Jesus Christ. **Daniel Chapter One** has been ecclesiastically and Commercially petitioned by the elders and those closely associated with Infinity, **Daniel Chapter One** a church and unincorporated religious assembly, to accept such responsibilities. Freedom of religion and the right to contract is required by the Law Of God and by natural and universal laws of the Lord God Almighty. Freedom of religion and the right to contract are protected by the Constitutions for the united States of America, the United States, and for Washington State. Freedom of religion and the right to contract is also recognized by International laws/Treaties and by Title 24.12 of the Revised Code of Washington (RCW).

Known all men by these presents that:

James Jesse Feijo, is the duly appointed and qualified Overseer for **Daniel Chapter One** having canonically taken possession of this responsibility on the // day of October in the year of Our Lord 2002, in accordance with the discipline **Daniel Chapter One** of a sovereign church and an unincorporated sovereign religious assembly, and does hereby, in conformity with such discipline and privacy, for the purpose of creating a corporation sole on this same day under its own authority and jurisdiction. RCW 24.12 provides authority for the Secretary of State of Washington State and RCW 36.18.010 and 65.04.080 and .110 provides authority for the auditors of the various counties, to receive for filing as a matter of record, on behalf of the people of Washington State, the following articles of corporation sole.

¹In this document, "Washington State" refers to the following entities:

- The Republics: Washington State and Washington state, and
- The corporations: State of Washington, state of Washington.

Daniel Chapter One Articles of Corporation Sole

Article 1

The name of this corporation sole shall be "Daniel Chapter One".

The duration of Daniel Chapter One, corporation sole, shall be in perpetuity.

Article 2

The Lord God Almighty and His Son The Lord Jesus Christ is the Sovereign Head and Director of Daniel Chapter One. James Jesse Feijo, as Daniel Chapter One joyfully submits to the Headship of the Lord God's Sovereignty and seeks first His Kingdom and His Righteousness. God's Law as contained in His Law Book, The Scriptures, and as interpreted by God's Holy Spirit is the Law for Daniel Chapter One. In agreement with each, within Daniel Chapter One, holds these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, Property, and the Pursuit of Happiness. That to secure these rights, governments are instituted among Men, deriving their just powers from the consent of the governed. Freedom of Conscience is held as sacred within the Kingdom Of God, within Daniel Chapter One

Article 3

The purposes of Daniel Chapter One, corporation sole, are to do whatever will promote the Kingdom Of God, All Righteousness, and the principals of Liberty and Justice; to provide for the comfort, happiness and improvement of an indefinite number of natural men and women, with special forerunner emphases upon the firm practice and lawful operation of the law, providing lawful advice, educating people in the fundamental principles of liberty and the common law, researching, developing and implementing remedies at law for any problem while holding accountable those individuals responsible for the breach of, or wrongful interference with contractual obligations, whether written, verbal, or implied; as well as other worthwhile projects for the common good of Daniel Chapter One and its close associates, along with other acts and programs beneficial to Daniel Chapter One at large.

Article 4

Title to and equitable interest in all real and other property held by Daniel Chapter One, corporation sole, shall be in the Name of The Lord Jesus Christ with stewardship responsibility delegated to James Jesse Feijo, or successor of the same, and in their, or in said successor's capacity as Daniel Chapter One. All said Titles and equitable interests shall be held in trust for the use, purpose, benefit and behoof of Daniel Chapter One, an unincorporated religious assembly. This corporation sole shall, for the purpose of the trust, have the power to contract in the same manner and to the same extent as natural men and women, and may sue and be sued, and otherwise function in commerce and all courts of justice and places of lawful jurisdiction, in all matters and proceedings whatever, and shall have authority to borrow money, give assignments and promissory notes therefore, and to secure the payment of the same by mortgage or other lien upon property, real or personal;

To buy, sell, lease, mortgage and in every way deal in real and moveable property in the same manner as a natural person may, and to employ assistance of counsel whether union or nonunion, to the extent that any such assistance of counsel shall be utilized in a capacity never greater than subordinate co-counsel in order to protect the right and duty of the corporation sole, to address all courts or other bodies in any and all matters whether national or international.

Article 5

Daniel Chapter One, corporation sole, is James Jesse Feijo. Whose mailing and principal location is James Jesse Feijo, c/o 21916 Southeast 392nd Street, Enumclaw Washington, 98022, non-domestic. The duties and responsibilities of **Daniel Chapter One** shall be in the Kingdom of God on the Earth, and throughout the fullness of all the land, including but not limited to the above mailing location.

Article 6

The registered agent and incorporator for **Daniel Chapter One**, corporation sole, is Rita Johnson. Whose mailing location is c/o P.O. Box 110788, Tacoma, Washington, 98411, non-domestic.

Article 7

The manner in which any vacancy occurring in the incumbency of **Daniel Chapter One**, shall be in accord with the following discipline: **Daniel Chapter One** shall:

- Pray,
- Notify all those closely associated with **Daniel Chapter One** to gather in solemn assembly to fill any vacancy, all pray,
- By formal unanimous approval, through appointment, effected by means of birthright appointment,
- Anoint, ordain and establish the filling of vacancy, thanking God.

Article 8

I, James Jesse Feijo, join in solemn assembly, appealing to the Supreme Judge of all creation for the rectitude of our intentions, do, in the Name, and by Authority of the good People associated with **Daniel Chapter One**, a church and an unincorporated religious assembly, solemnly publish and declare, That **Daniel Chapter One**, and of Right, ought to be, a Free and Independent manifestation of The Kingdom Of God at hand; that has full Power to levy War, conclude Peace, contract Alliance, establish Commerce, and to do all other Acts and Things which Independent States may of Right do. And for the support of this Charter, with firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Article 9

There is to be no Business Tax Identifier associated with this corporation sole. Please endorse one copy of these articles of corporation sole and charter with the gold seal of the Secretary of State. Thank you.

Article 10

On this day James Jesse Feijo, did personally appear before us and is known to us to be the individual described and who executed the within and foregoing articles of corporation sole of responsibility of **Daniel Chapter One** and acknowledged that said representative signed the same as this representatives' free and voluntary act and deed, we hereunto set our hands this 11 day of OCTOBER, in the year of Our Lord 2002, in the Kingdom of God.


Secretary for **Daniel Chapter One**

Daniel Chapter One, corporation sole

Certificate of Evidence of Appointment

James Jesse Feijo, is a duly appointed qualified Overseer for **Daniel Chapter One** an unincorporated religious assembly, by virtue of divine appointment and that said representative is and has been sustained as such by all those in **Daniel Chapter One**, and closely associated with the said religious assembly in a special meeting assembled on the 11 day of October in the year of our Lord 2002, and evidenced by a recording of such appointment signed by Patricia Ann Feijo secretary for **Daniel Chapter One**, whose mailing location is c/o P.O. Box 223, Portsmouth, Rhode Island, 02871-0223, non-domestic, being the one charged with keeping the chronicle. The following is hereby attested to as being a true and correct copy of said appointment therein contained, to wit:

By unanimous sustaining vote of all those closely associated with **Daniel Chapter One**, in special elective meeting assembled, this 11 day of October in the year of Our Lord 2002, James Jesse Feijo, was duly appointed to the responsibility of Overseer of **Daniel Chapter One**, for a term to demise or abdication of the same.

The manner in which any vacancy occurring in the incumbency of such **Daniel Chapter One** is required by the assemblage's constitution, canons, rules, regulations, and discipline of the above named religious assembly to be filled as set forth in Article 7 of the preceding Articles of corporation sole and Charter of the **Daniel Chapter One**, a corporation sole.


Secretary for **Daniel Chapter One**

Consent to serve as registered agent

By unanimous vote of those attending the Daniel Chapter One solemn assembly to fill vacancies, in special electoral meeting assembled, on the 11 day of October, in the year of our Lord 2002, Rita Johnson was duly appointed to the responsibilities of Registered Agent for Daniel Chapter One for a term of life or abdication. Whose mailing location is c/o P.O. Box 110788, Tacoma, Washington, 98411, non-domestic.

Signed this the 11 day of October, in the year of our Lord 2002.


Secretary for Daniel Chapter One


Consent to serve Daniel Chapter One, corporation sole


I, James Jesse Feijo, hereby consent to serve as an Overseer for Daniel Chapter One, corporation sole.

I, James Jesse Feijo, understand that as an Overseer, it will be my responsibility to steward God's resources associated with Daniel Chapter One in a prudent way as guided by sacred understanding.

I, Rita Johnson understand that as registered agent for Daniel Chapter One, it will be my responsibility, among other things, to receive service of process, and forward all mail to the appropriate people.

I, James Jesse Feijo understand that I am to immediately notify all those associated with Daniel Chapter One in the event of my resignation, or any changes in my mailing location.


Registered Agent / Incorporator


Overseer for Christ

Witnesses:


Signed at Portsmouth RI Date 10/11/02

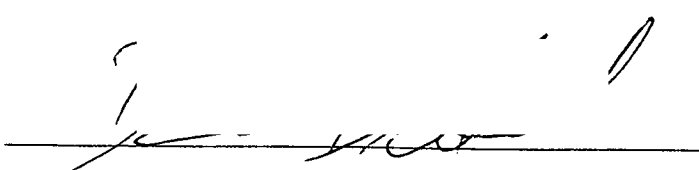

Signed at Portsmouth, RI Date 10-11-02

Exhibit “2”

Chapter 24.12 RCW Corporations sole

Chapter Listing

RCW Sections

[24.12.010](#) Corporations sole -- Church and religious societies.

[24.12.020](#) Corporate powers.

[24.12.025](#) Indemnification of agents of any corporation authorized.

[24.12.030](#) Filing articles -- Property held in trust.

[24.12.040](#) Existing corporations sole.

[24.12.050](#) Fees for services by secretary of state.

[24.12.060](#) Administrative dissolution or revocation of a certificate of authority -- Corporation name not distinguishable from name of governmental entity -- Application by governmental entity.

Notes:

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.12.010

Corporations sole — Church and religious societies.

Any person, being the bishop, overseer or presiding elder of any church or religious denomination in this state, may, in conformity with the constitution, canons, rules, regulations or discipline of such church or denomination, become a corporation sole, in the manner prescribed in this chapter, as nearly as may be; and, thereupon, said bishop, overseer or presiding elder, as the case may be, together with his successors in office or position, by his official designation, shall be held and deemed to be a body corporate, with all the rights and powers prescribed in the case of corporations aggregate; and with all the privileges provided by law for religious corporations.

[1915 c 79 § 1; RRS § 3884.]

24.12.020

Corporate powers.

Every corporation sole shall, for the purpose of the trust, have power to contract in the same manner and to the same extent as a natural person, and may sue and be sued, and may defend in all courts and places, in all matters and proceedings whatever, and shall have authority to borrow money and give promissory notes therefor, and to secure the payment of the same by mortgage or other lien upon property, real and personal; to buy, sell, lease, mortgage and in every way deal in real and personal property in the same manner as a natural person may, and without the order of any court; to receive bequests and devises for its own use or upon trusts, to the same extent as natural persons may; and to appoint attorneys-in-fact.

[1915 c 79 § 2; RRS § 3885.]

24.12.025

Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

24.12.030**Filing articles — Property held in trust.**

Articles of incorporation shall be filed in like manner as provided by law for corporations aggregate, and therein shall be set forth the facts authorizing such incorporation, and declare the manner in which any vacancy occurring in the incumbency of such bishop, overseer or presiding elder, as the case may be, is required by the constitution, canons, rules, regulations or discipline of such church or denomination to be filled, which statement shall be verified by affidavit, and for proof of the appointment or election of such bishop, overseer or presiding elder, as the case may be, or any succeeding incumbent of such corporation, it shall be sufficient to file with the secretary of state the original or a copy of his commission, or certificate, or letters of election or appointment, duly attested: PROVIDED, All property held in such official capacity by such bishop, overseer or presiding elder, as the case may be, shall be in trust for the use, purpose, benefit and behoof of his religious denomination, society or church.

[1981 c 302 § 10; 1915 c 79 § 3; RRS § 3886.]

Notes:

Severability -- 1981 c 302: See note following RCW 19.76.100.

24.12.040**Existing corporations sole.**

Any corporation sole heretofore organized and existing under the laws of this state may elect to continue its existence under *this title [chapter] by filing a certificate to that effect, under its corporate seal and the hand of its incumbent, or by filing amended articles of incorporation, in the form, as near as may be, as provided for corporations aggregate, and from and after the filing of such certificate of amended articles, such corporation shall be entitled to the privileges and subject to the duties, liabilities and provisions in *this title [chapter] expressed.

[1915 c 79 § 4; RRS § 3887.]

Notes:

***Reviser's note:** The language "this title" appeared in chapter 79, Laws of 1915, an independent act, codified herein as chapter 24.12 RCW.

24.12.050**Fees for services by secretary of state.**

See RCW 43.07.120.

24.12.060**Administrative dissolution or revocation of a certificate of authority — Corporation name not distinguishable from name of governmental entity — Application by governmental entity.**

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 4.]

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4 **IN THE UNITED STATES OF AMERICA**
5 **BEFORE THE FEDERAL TRADE COMMISSION**
6 **OFFICE OF ADMINISTRATIVE LAW JUDGES**

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

14 **[Proposed] ORDER DENYING COMPLAINT COUNSEL'S**
15 **MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

16 On December 15, 2008, Complaint Counsel filed a motion to compel Respondents to
17 produce documents, and Respondents filed an opposition to the motion on December 29, 2008.

18 The matter being heard on January __, 2009, and the Court being fully advised,

19 IT IS ORDERED that Complaint Counsel's motion be, and is hereby DENIED.

20
21 Dated this ___th day of _____, 2009.

22
23 _____
24 D. Michael Chappell
25 Administrative Law Judge
26
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1 Swankin & Turner
James S. Turner
2 1400 16th Street, NW, Suite 101
Washington, DC 20036
3 Ph: 202-462-8800
4 Fax: 202-265-6564
Email: jim@swankin-turner.com

5 Michael McCormack
26828 Maple Valley Hwy, Ste 242
6 Maple Valley, WA 98038
7 Ph: 425-785-9446
Email: m.mccormack@mac.com

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10
11 **IN THE UNITED STATES OF AMERICA**
12 **BEFORE THE FEDERAL TRADE COMMISSION**
13 **OFFICE OF ADMINISTRATIVE LAW JUDGES**

14 **In the Matter of**) **Docket No.: 9329**
15 **DANIEL CHAPTER ONE,**)
16 **a corporation, and**) **PUBLIC DOCUMENT**
17 **JAMES FEIJO,**)
18 **individually, and as an officer of**)
19 **Daniel Chapter One**)

20 **CERTIFICATE OF SERVICE**

21
22 I certify that on December 29, 2008, I served or caused to be served the attached
23 Respondents' Objection and Memorandum in Opposition to Complaint Counsel's Motion to
24 Compel Production of Documents, on the following individuals and entity by the means
25 indicated:
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27
28

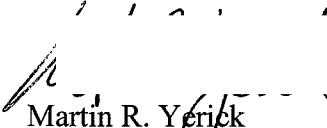
1 By electronic mail followed by Federal Express:

2 Office of the Secretary
3 Federal Trade Commission
4 600 Pennsylvania Avenue, NW, Room H-159
Washington, DC 20580

5 Theodore Zang, Jr., Esq.
6 Carole A. Paynter, Esq.
7 David W. Dulabon, Esq.
8 Federal Trade Commission – Northeast Region
One Bowling Green, Suite 318
New York, NY 10004

9 Courtesy Copies:

10 Hon. D. Michael Chappell
11 Administrative Law Judge
12 600 Pennsylvania Avenue, NW, Room H-528
13 Washington, DC 20580

14
15
16 
Martin R. Yerrick
17 Swankin & Turner
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