

**IN THE UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**In the Matter of**

**DYNAMIC HEALTH OF FLORIDA, LLC,  
CHHABRA GROUP, LLC,  
DBS LABORATORIES, LLC,  
Limited liability companies,**

**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**

**RESPONDENTS' RESPONSE TO COMPLAINT COUNSEL'S PRODUCTION OF  
DOCUMENTARY MATERIALS AND TANGIBLE THINGS**

COMES NOW, Respondents Dynamic Health of Florida LLC, Chhabra Group, LLC, and Vineet Chhabra ("Respondents" when applicable to all three Respondents), and pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice, object and respond to Complaint Counsel's Production of Documentary Materials and Tangible Things as set forth below.

Respectfully Submitted,

  
\_\_\_\_\_  
/s/ Max Kravitz  
MAX KRAVITZ (Ohio Reg. 0023765)  
KRAVITZ & KRAVITZ  
145 East Rich Street  
Columbus, Ohio 43215  
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Incorporation of Voluntary Submissions by Arent Fox Kintner Plotkin & Kahn, PLLC

Respondents incorporate by reference the voluntary submissions by the law firm on Arent Fox on behalf of DBS Laboratories, LLC. These submissions were made on December 12, 2003, December 17, 2003 and on February 3, 2004. A summary of these submissions is attached and labeled as Exhibits A, B and C respectively.

Objections

Respondents object to Complaint Counsels' First Request to Respondents for Production of Documentary Materials and Tangible Things ("Document Requests") and incorporate into each of its specific responses below as if set forth fully in response to each document request, the following general objections. Respondents' responses to these requests reflect counsel's best information as of the date of this response. Discovery is continuing and the responses are given with the caveat that as discovery continues, Respondents may modify, amend, and supplement certain responses. Where a document request is answered or discovery provided, the answer and discovery is provided subject to and without waiver of the general objections set forth herein, and each specific objection set forth in the answer.

A. Respondents incorporate by reference Respondents' Motion to Compel Compliance with 16 C.F.R. § 3.35, filed contemporaneously with this pleading, as if specifically set forth anew in this pleading. According to the August 2, 2004 Scheduling Order in this case, Complaint Counsel is only permitted to propound a total of fifty (50) document requests. Respondents have not stipulated to respond to any interrogatories propounded in excess of this limit. Respondents therefore object to Complaint Counsel's Document Requests to the extent that the number of individual interrogatories, including subparts, exceeds the allotted number of interrogatories.

B. Respondents object to Complaint Counsel's Document Requests to the extent that such discovery seeks disclosure of any information, materials, and/or communications protected by applicable privileges and immunities, including but not limited to the attorney-client privilege, physician-patient privilege, fifth amendment privilege (for Respondent Vineet Chhabra) and work product immunity. To the extent possible, when information is withheld pursuant to this objection, it shall be identified to the extent required.

C. At this time, information and documents that *may* be responsive to Complaint Counsel's Document Requests are being held by the United States Attorneys' Office for the Eastern District of Virginia, or the United States Attorneys' Office, Office of Consumer Litigation, Washington, DC, or under the jurisdiction and supervision of the United States District Court for the Eastern District of Virginia, Alexandria Division, or in the possession or control of the Federal Bureau of Investigation, Drug Enforcement Administration or Food and Drug Administration. These documents, including computers, which were seized pursuant to search warrants executed at the residence of Mr. Chhabra in Golden Beach, Florida, or at the offices of Dynamic Health of Florida, LLC and Chhabra Group, LLC at 1485 North Park Drive, Weston, Florida, on or about December 3, 2003, are not available for the preparation of Respondents' responses to these interrogatories. Presumably, these documents have been made available to Complaint Counsel, or are available to Complaint Counsel upon request to the appropriate divisions of the government. If Complaint Counsel obtains from the aforementioned entities documents that are relevant to this case, Respondents request that copies be made available to them.

D. Respondents reserve the right to respond to Complaint Counsel's Document Requests, where applicable, by producing responsive documents, if any, in accordance with the

civil rules. Respondents generally object, however, to producing in response to any interrogatory or document request, any documents or things which are (1) not in the possession, custody, or control of Respondents; (2) are already in the possession, custody, or control of Complaint Counsel; or (3) publicly available or otherwise as available to Complaint Counsel as to Respondents.

Attached to this response to Complaint Counsel's First Request to Respondents for Production of Documentary Materials and Tangible Things are three voluntary responses sent by Arent Fox on behalf of DBS Laboratories, LLC, to Janet Evans, attorney for the Federal Trade Commission, dated December 13, 2003, December 17, 2003 and February 3, 2004. Because the burden of deriving or ascertaining responses to the document requests set forth below is substantially the same for both parties concerning the Arent Fox voluntary disclosures that were sent to Complaint Counsel prior to the institution of this lawsuit, all responses by Dynamic Health of Florida, LLC set forth below to the first fifty (50) document requests answered by Dynamic Health incorporate by reference all of the voluntary disclosures by Arent Fox. Although Respondent Dynamic Health is not under any obligation to answer more than fifty (50) documentary requests, including sub-parts, Dynamic Health incorporates by reference the voluntary disclosures by Arent Fox as if specifically included as a response for each of the interrogatory requests, including sub-parts, set forth below.

E. Respondents generally object to Complaint Counsel's Document Requests to the extent that the instructions and definitions contained therein attempt to place an obligation or responsibility on Respondents to provide responses or information not required by the Federal Rules of Civil Procedure or Rules of the Federal Trade Commission.

F. In responding to Complaint Counsel's Document Requests, Respondents are not waiving any objection or failure to claim any privilege available to them, including but not limited to, the attorney-client privilege, work product privilege or any other privilege available by statute or rule of common law. Respondents' objections and/or responses are conditioned specifically on the understanding that the provision of information to which any claim of privilege is applicable shall be deemed inadvertent and does not constitute a waiver of any such claim or privilege.

G. Respondents' objections and responses to Complaint Counsel's Document Requests are made on the basis of facts and circumstances as they are presently known. Respondents have not completed their investigation of all the facts relating to this case, their discovery in or analysis of this action, and have not completed preparation for trial. Counsel for Respondents has not been able to travel to Florida to meet with potentially knowledgeable parties and witnesses since the service of these Document Requests due to circumstances beyond his control that are more fully set forth in prior pleadings. In addition, Respondents have been severely hampered in effectively defending this action due to a restraining order issued by the United States District Court for the Eastern District of Virginia, Alexandria Division, Brinkema, J., presiding, that restrains and forfeits all of Mr. Chhabra's and Chhabra Group, LLC's assets. Dynamic Health is no longer in business. The restraining order is set forth in prior pleadings.

Accordingly, the following responses are provided without prejudice to Respondents' right to introduce at trial any evidence subsequently discovered. Respondents further reserve the right to supplement their responses to Complaint Counsel's Document Requests based upon new discovery of evidence or information of which Respondents are not presently aware, or otherwise, as necessary. Respondents reserve their right to rely at any time on information that is

subsequently discovery or was omitted from response as a result of mistake, error, oversight, or inadvertence.

H. Respondents' objections and responses are based on their understanding and interpretation of Complaint Counsel's Document Requests. If Respondents understand or interpret any of Document Requests differently than Complaint Counsel, Respondents reserve the right to supplement any of these objections or responses.

I. The Complaint concerns two products: Pedia Loss and Fabulously Feminine. The Document Requests demand "all documents" concerning "any dietary supplement product." Respondents object to the Document Requests because they are duplicative, vague, ambiguous, overbroad and unduly burdensome for this reason alone. The Document Requests are also overbroad and unduly burdensome, time-consuming and costly considering that the gross sales of Pedia Loss and Fabulously Feminine totaled approximately \$19,000 and neither product has been offered for sale for approximately one year.

J. Respondents object to the Document Requests to the extent that they purport to impose burdens or duties upon Respondents that exceed the scope of permissible discovery under the Federal Trade Commission rules and the provisions of the Pretrial Scheduling Order.

K. There are no time periods set forth in the Interrogatories, thereby exacerbating the ambiguous, overbroad and unduly burdensome nature of the Interrogatories. See Instructions, No. 1, p.6.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K as if specifically set forth anew for every document request in Complaint Counsel's Document Requests.

  
Max Kravitz

## Document Request Responses of Vineet Chhabra


Mr. Chhabra objects to all Document Requests on the basis of the General Objections A through K set forth above. Mr. Chhabra incorporates by reference any objections set forth in the Document Requests responses of Dynamic Health of Florida, LLC, as set forth below.

Mr. Chhabra objects to answering any of the Document Requests since it is not clear whether the Document Requests have been submitted to him individually. It is the position of Mr. Chhabra that Document Requests have been not been submitted to him individually as required by the rules. Mr. Chhabra objects to the Document Request responses of any other party being considered “collectively” as his own answers. See, e.g., Document Requests, Instructions, No. 18, p.6. Even if the overbroad and unduly burdensome Document Requests can be interpreted as being submitted to him in his individual capacity, due to pending charges in the United States District Court for the Eastern District of Virginia, Alexandria Division, and upon the advice of counsel, Mr. Chhabra declines to respond to any Document Requests submitted to him based on his fifth amendment privilege against self-incrimination. See, Respondents’ Joint Motion for Protective Order Pursuant to Civil Rule 26(C) and for Stay of Proceedings, July 27, 2004, at 4-7 and cases cited in n.2. See, *Doe v. United States*, 465 U.S. 605 (1984). See also, *Federal Trade Commission v. Medicor, LLC*, 217 F. Supp. 2d 1048 (C.D.Cal.W.D. 2002).<sup>1</sup> See also, *Estate of Lee B. Fisher v. Commissioner of Internal Revenue*, 905 F.2d 645 (2d Cir. 1990); *Securities and Exchange Commission v. Zimmerman*, 854 F. Supp. 896 (N.D.Ga. 1993).

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<sup>1</sup> Although the court may draw adverse inferences from their failure of proof, “[t]here must, however, be evidence in addition to the adverse inference to support a court’s ruling. Defendant cited authority supports the proposition that Defendants silence may not lead “directly and without more to the conclusion of guilty or liability. An adverse inference can be drawn when silence is countered by *independent evidence* of the fact being questioned.” *Id.* at 1053 (citations omitted)(emphasis in original).

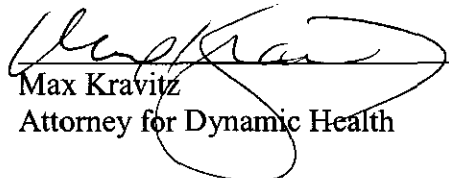
OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
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Max Kravitz  
Attorney for Dynamic Health

Document Request Responses of Chhabra Group, LLC (“Chhabra Group”)

Chhabra Group objects to providing responses to any Document Requests “collectively” as contemplated in the Instructions to the Document Requests. It is the position of Chhabra Group that no Document Requests have been submitted to it individually as required by the rules. Chhabra Group objects to all Document Requests on the basis of the General Objections A through K set forth above. Chhabra Group incorporates by reference any objections set forth in the Document Request responses of Dynamic Health, LLC, as set forth below.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
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Max Kravitz  
Attorney for Dynamic Health

Document Request Responses of Dynamic Health of Florida, LLC (“Dynamic Health”)

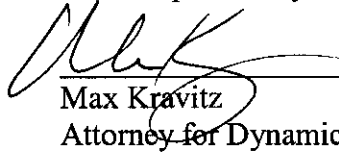
Dynamic Health objects to providing responses to any Document Requests “collectively” as contemplated in the Instructions to the Document Requests. It is the position of Dynamic Health that no Document Requests have been submitted to it individually as required by the rules. Dynamic Health objects to all Document Requests on the basis of the General Objections A through K set forth above.

Dynamic Health incorporates by reference all of the responses to the subpoenas for documents sent by Complaint Counsel to Dr. Alberto Guzman, Hill, Knowlton and Samcor,



LLC, Highland Laboratories, Pharmachem Laboratories, Inc., Nutrition Formulators, Inc., John reinbergs, Guy Regalado, Randi Swatt, Louis Cohen, Sabina Faruqui and Arent Fox.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

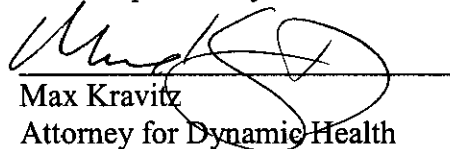
  
Max Kravitz  
Attorney for Dynamic Health

Specific Objections and Responses of Dynamic Health

Notwithstanding the objections set forth above, Dynamic Health responds to the first approximately fifty (50) documentary requests as follows. Counsel for Dynamic Health has renumbered Complaint Counsel's Document Requests since Dynamic Health has no obligation to answer more than fifty (50) document requests according to the August 2, 2004 Scheduling Order. The Document Requests are renumbered by the designation "( )".

In the event that the Court permits Complaint Counsel to issue more than fifty (50) document requests, Dynamic Health reserves the right to specifically object to any additional interrogatories at the time they are permitted and submitted.

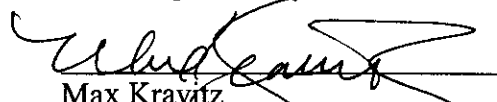
OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

Document Request No. One: All documents referring or relating to the structure and management of any company that has played a role in the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement product, including but not limited to Dynamic Health of Florida, LLC, Chhabra Group, LLC, Chhabra International Ltd., Kearting, LLC, Chhabra Internet Support Center, LLC, Chhabra Internet Fulfillment Services, LLC, Chhabra Management, LLC, Metability of Florida, LLC, CG Fulfillment, and USA Prescription, Inc. (This request includes but is not limited to documents showing articles of incorporation, by-laws,

minutes, the date and place of company formation, company form, parent, subsidiary and affiliate companies, and filings with State of Federal corporate regulatory authorities; documents showing the names and titles of directors, officers, supervisors, and managers, and organizational charts; documents showing the ownership interests of all owners; documents describing the authority, duties and responsibilities of officers, managers, directors, and supervisors; and any documents delegating authority to engage in any act on behalf of Vineet K. Chhabra or act as agent for Vineet Chhabra).

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

Dynamic Health of Florida, LLC is defunct. It does not have offices. It has no employees. It has no assets nor did it ever have assets. It was a sales organization working 100% by commission although it is not clear what organization ultimately paid the commissions. When the federal government executed search warrants on or about December 3, 2003, they seized every document in Louis Cohen's office who was the controller for Chhabra Group, LLC. Many, if not all, of Dynamic Health's financial records were in Mr. Cohen's office and they were seized. Dynamic Health does not have documents responsive to this subpoena.

On or about December 3, 2003, federal search warrants were also executed at the residence of Mr. Chhabra and the residence of his sister, Sabina Faruqui, and perhaps his parents. All records, including financial records and computer records, and computers at Mr. Chhabra's residence were seized.

There are no records that currently are in the care, custody and control of Dynamic Health except for the submissions by Arent Fox to the FTC on behalf of DBS Laboratories, LLC which Complaint Counsel Janet Evans already has in her possession.

All Respondents request that relevant documents obtained by Complaint Counsel from the United States Attorneys' Office, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Food and Drug Administration and other agencies of the government, including the legislative branch of the government, be made available to Respondents.

(1) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?

(2) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?

(3) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?

(4) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?

(5) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?

(6) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(7) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement?

Chhabra Group, LLC.

(8) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?

(9) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?

(10) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?

(11) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?

(12) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?

(13) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(14) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

Chhabra International Ltd.

(15) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?

(16) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?

(17) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?

(18) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?

(19) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?

(20) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(21) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

#### Kreating, LLC

(22) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?

(23) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?

(24) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?

(25) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?

(26) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?

(27) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(28) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

#### Chhabra Internet Support Center, LLC

- (29) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?
- (30) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?
- (31) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?
- (32) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?
- (33) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?
- (34) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?
- (35) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

Chhabra Internet Fulfillment Services, LLC

- (36) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?
- (37) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?
- (38) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?
- (39) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?
- (40) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?
- (41) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?
- (42) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

Chhabra Management, LLC

- (43) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?
- (44) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?
- (45) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?
- (46) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?
- (47) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?
- (48) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?
- (49) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

Metability of Florida, LLC

- (50) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?
- (51) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?
- (52) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?
- (53) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?
- (54) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?
- (55) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(56) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

#### CG Fulfillment

(57) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?

(58) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?

(59) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?

(60) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?

(61) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?

(62) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(63) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

#### USA Prescription, Inc.

(64) All documents referring or relating to the structure and management that has played a role in the formulation relating to any dietary supplement product?

(65) All documents referring or relating to the structure and management that has played a role in the manufacture relating to any dietary supplement product?

(66) All documents referring or relating to the structure and management that has played a role in the advertising relating to any dietary supplement product?

(67) All documents referring or relating to the structure and management that has played a role in the marketing and promotion relating to any dietary supplement product?


(68) All documents referring or relating to the structure and management that has played a role in the offering for sale, sale, and/or distribution relating to any dietary supplement product?

(69) All documents referring or relating to the structure and management that has played a role in the customer service relating to any dietary supplement product?

(70) All documents referring or relating to the structure and management that has played a role in the fulfillment relating to any dietary supplement product?

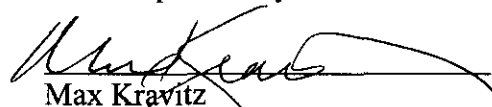
Document Request No. Two: All documents and communications referring to or relating to the duties responsibilities, and services performed or anticipated to be performed by Dynamic Health of Florida, LLC, Chhabra Group, LLC, DBS Laboratories, LLC, DBS Labs, LLC, Chhabra International Ltd., Dynamic Health International, Kreating, LLC, Chhabra Internet Support Center, LLC, Chhabra Internet Fulfillment Services, LLC, Chhabra Management, LLC, Metability of Florida, LLC, CG Fulfillment, USA Prescription, Inc., Hill Knowlton & Samcor, TransMedia Group, Nutrition Formulators, Highland Laboratories, Pharmachem Laboratories, Health Tek Laboratories, Executive Label, Inc., Vineet K. Chhabra, Dr. Alberto Guzman, Guy Regalado, Randi Swatt, Gil Herrera, Arent Fox, and Jonathan Barash with respect to the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

Document Request No. Three: Two complete packages, including the product contained therein, of each of the challenged products. (If any product has been sold under more than one label or reformulated provide two complete packages, including the product contained therein and all packaging inserts, of each version of the product that has been marketed and sold).

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

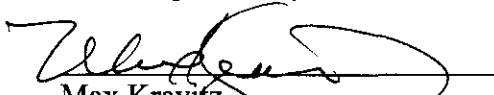
  
Max Kravitz  
Attorney for Dynamic Health

It is Dynamic Health's understanding that Complaint Counsel is already in possession of these products in their original packages. See, e.g., Letters of Arent Fox to Janet Evans, December 13, 2003, December 17, 2003 and February 3, 2004.

Document Request No. Four: All labels and promotional materials for the challenged products, whether in draft or final form.



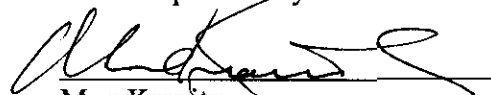
OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

It is Dynamic Health's understanding that Complaint Counsel is already in possession of these products in their original packages. See, e.g., Letter of Arent Fox to Janet Evans, December 13, 2003, Exhibit A attached, Bates labeled DBS 0001-DBS 0979.

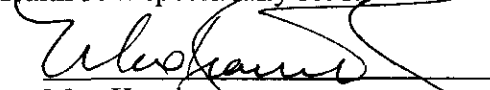
Document Request No. Five: All documents and communications referring or relating to draft or final labels and promotional materials for the challenged products. (This request includes but is not limited to contracts, documents, and communications evidencing the creation, modification, approval, execution, evaluation, dissemination, clearance, or placement of labels and promotional materials, and documents referring or relating to the contents of draft or final labels and promotional materials, including but not limited to any claims, messages, or communication in any draft or final labels and promotional materials(s).)

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

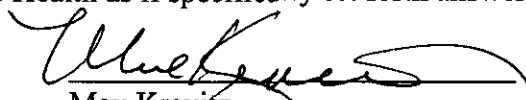
Document Request No. Six: All documents and communications referring or relating to the efficacy of the any dietary supplement relating to female sexual health or children's weight or any ingredient therein (including but not limited to tests, reports, studies, scientific literature, written opinions, and any other documents referring or relating to the amount, type, or quality of testing or substantiation), including all documents and communications that are relied upon as substantiation for, or that tend to refute, the claims alleged in the Complaint (¶¶ 9, 13 and 15) regardless of whether you contest that those claims were made.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

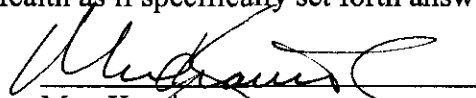
Document Request No. Seven: All documents and communications that refer or relate to any advice or counsel provided by the law firm of Arent Fox regarding the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement relating to female sexual health or children's body weight.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health


Document Request No. Eight: All documents and communications that refer or relate to the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement relating to female sexual health or children's body weight.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

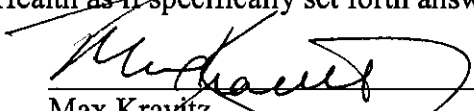
Document Request No. Nine: All documents and communications referring or relating to the marketing of each of the challenged products. (This request includes but is not limited to market research, marketing plans or strategies, and all other document(s) and communications referring or relating to copy tests, marketing or consumer surveys and reports, penetration tests, target audiences, recall tests, audience reaction tests, communications tests, consumer perception of any promotional materials for any of the challenged products.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

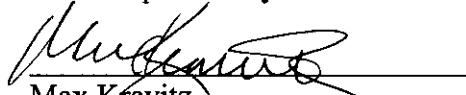
Document Request No. Ten: All documents and communications referring or relating to complaints or investigations of any of the challenged products or their labels or promotional materials. (This request includes but is not limited to documents and communications relating to lawsuits, demand letters, refund requests, warranty or guarantee claims, and complaints or inquiries by any local, state, or federal government legislature, agency or entity, or other persons (including but not limited to consumers, competitors, and entities such as the Better Business Bureau or the national Advertising Division).

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
\_\_\_\_\_  
Max Kravitz  
Attorney for Dynamic Health

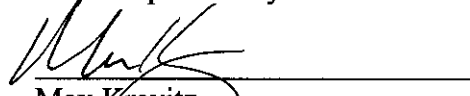
Document Request No. Eleven: All documents referring or relating to, or constituting a dissemination schedule for advertisements relating to the challenged products.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
\_\_\_\_\_  
Max Kravitz  
Attorney for Dynamic Health

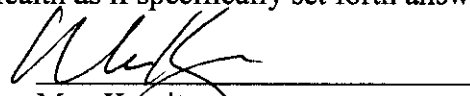
Document Request No. Twelve: All tax returns for Respondents for 2000 to present, including but not limited to all supporting documents and attachments, requests for extension for filing any tax return, and any statement(s) of the reasons for which any extension(s) were requested. (This request includes all returns and related information pertaining to the payment of payroll and unemployment taxes, social security taxes, medicare, and Federal, State and local and sales, business, gross receipts, licensing, property, and income taxes.)

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
\_\_\_\_\_  
Max Kravitz  
Attorney for Dynamic Health

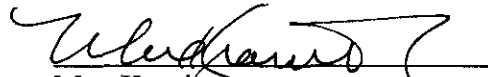
Document Request No. Thirteen: From the date of the first sale of each of the challenged products to date, all documents that show gross and net sales figures and profit figures for each of the challenged products.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
\_\_\_\_\_  
Max Kravitz  
Attorney for Dynamic Health


Document Request No. Fourteen: One copy of any plea, stipulation, statement, admission, and agreement signed by any Respondent in connection with any State or Federal civil or criminal law enforcement matter.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health


Document Request No. Fifteen: All documents referring or relating to transfer or sale of any of the Respondent's interest in, or rights to market or sell, any dietary supplement.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

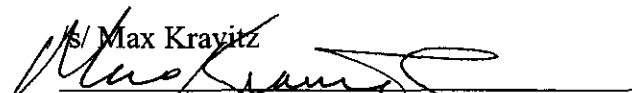
  
Max Kravitz  
Attorney for Dynamic Health

Document Request No. Sixteen: All documents and communications consulted or used in preparing your responses to Complaint Counsel's interrogatories.

OBJECTION: Respondent Dynamic Health incorporates by reference Objections A through K and the Specific Objections of Dynamic Health as if specifically set forth answer in this objection.

  
Max Kravitz  
Attorney for Dynamic Health

Respectfully Submitted,

  
s/ Max Kravitz  
MAX KRAVITZ (Ohio Reg. 0023765)  
KRAVITZ & KRAVITZ  
145 East Rich Street  
Columbus, Ohio 43215  
Tel: (614)464-2000  
Fax: (614)464-2002  
[mkravitz@kravitzlaw.net](mailto:mkravitz@kravitzlaw.net)

CERTIFICATE OF SERVICE

This is to certify that on November 29, 2004, I caused a copy of the attached

**RESPONDENTS' RESPONSE TO COMPLAINT COUNSEL'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS**

to be served upon the following persons by facsimile, email, Federal Express or U.S. First Class

Mail:

(1) the original and one (1) paper copy filed by Federal Express, and one electronic copy via email to:

Donald S. Clark, Secretary  
Federal Trade Commission, Room 159  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
E-mail: [secretary@ftc.gov](mailto:secretary@ftc.gov)

(2) two (2) paper copies served by Federal Express and one electronic copy via email to:

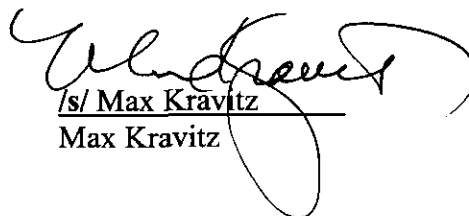
The Honorable Stephen J. McGuire  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
E-mail: [dgross@ftc.gov](mailto:dgross@ftc.gov)

(3) one (1) electronic copy via email and one (1) paper copy via U.S. mail to:

Janet Evans  
Syd Knight  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
E-mail: [jevans@ftc.gov](mailto:jevans@ftc.gov)

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original, and that a paper copy with an original signature is being filed with the Secretary of the Commission by being sent by U.S. mail.

Dated: Columbus, Ohio  
November 29, 2004

  
/s/ Max Kravitz  
Max Kravitz



**Arent Fox**  
ATTORNEYS AT LAW

**Arent Fox Kintner Plotkin & Kahn, PLLC**  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5339  
Phone 202/857-6000  
Fax 202/857-6395  
www.arentfox.com

December 12, 2003

**Brian P. Waldman**  
202/857-8971  
waldman.brian@arentfox.com

BY FEDERAL EXPRESS

**James A. Kaminski**  
202/828-3447  
kaminski.james@arentfox.com

Janet Evans, Esq.  
Sydney Knight, Esq.  
Federal Trade Commission  
Division of Advertising Practices  
601 New Jersey Ave. N.W.  
Washington, D.C. 20580

Re: DBS Laboratories, LLC

Dear Ms. Evans and Mr. Knight:

Enclosed please find a voluntary submission of information made on behalf of DBS Laboratories, LLC ("DBS Labs" or "the Company"), marketers and distributors of dietary supplement products. As discussed during our telephone conversation on December 2, 2003, DBS Labs became aware of the Federal Trade Commission's ("FTC") inquiry into products marketed by the Company when it mistakenly received a copy of the Civil Investigative Demand ("CID") issued to USA Prescriptions, Inc. ("USAP"). That company is not affiliated with DBS Labs, but is an Internet retailer of DBS Labs' products.

DBS Labs seeks to cooperate fully with the FTC to resolve any concerns regarding the Company's products. To that end, the Company has provided responses to the Specifications and Interrogatories contained in the CID issued to USAP, although from the Company's perspective, of course. Attachment 1 presents in bold type the Specifications (as written) in the CID, followed by DBS Labs' responses. Attachment 2 presents in bold type the Interrogatories (as written) in the CID, followed by DBS Labs' responses. Responsive documents are Bates labeled and identified accordingly.

It is important to note that while DBS Labs was incorporated in March 2003, the Company only began selling the subject products in August 2003, with total sales to date of less than \$19,000. Further, while the Company continues to promote and sell 5 of the 6 products covered by this submission, the Company voluntarily has decided to discontinue further promotion of its Pedia Loss product pending further market analysis.

We are hopeful that you find this information useful in resolving any concerns you may have. To the extent that additional relevant information becomes available to the Company, we voluntarily will supplement this submission. DBS Labs requests that all

**EXHIBIT A**



Janet Evans, Esq.  
Sydney Knight, Esq.  
December 12, 2003  
Page 2

documents and information submitted pursuant to this voluntary submission remain confidential pursuant to 15 U.S.C. §§ 46(f) and 57b-2(f) and 16 C.F.R. §§ 4.10-4.11.

Please contact us if you have any questions.

Sincerely,

Brian P. Waldman

James A. Kaminski

**DBS LABORATORIES, LLC**

**Specification 1. Two (2) packages of the following, in their original packaging, including any package insert (s):**

**Pedia Loss  
Apimin-AM  
Apimin-PM  
Carb-Crusher  
Fat-Fighter and  
Thermo-Loss.**

**Response:** Two packages of each product are enclosed herein. The product Carb-Crusher was renamed and is currently marketed under the name "Carb-Control." DBS does not offer a product under the name "Thermo-Loss," but assumes that the FTC is referring to the product "Thermo Lean." All references to "Carb-Crusher" and "Thermo-Loss" will be construed to mean "Carb-Control" and "Thermo Lean."

**Specification 2. A copy of every advertisement for the products identified in Specification 1, including but not limited to package labeling, package inserts, Web pages, promotional materials, marketing materials, and telemarketing materials, that has been disseminated or read to consumers, health professionals, distributors, or any other person since January 1, 2001, or that has been prepared for future dissemination or use. Review the Instructions and Definitions that accompany these Specifications for directions regarding compliance with this Specification 1.**

**Response:** Responsive documents are provided herein and Bates labeled DBS 0001 – DBS 0979.

**Specification 3. In connection with the products identified in Specification 1, all scripts that have been read to consumers or otherwise used to make oral solicitations to consumers, and all instructional or educational materials, manuals, training material (including audio or video tapes of oral instructions), quality control standards, and any other documents disclosing or setting forth direction, advice, recommendations, guidance, control, monitoring or instruction referring or relating to the promotion or advertising of such products to consumers provided since**



**DBS LABORATORIES, LLC**

**January 1, 2001 to telephone sales personnel utilized or employed by you.**

**Response:** There are no responsive documents. DBS Labs receives only inbound telemarketing. When a consumer contacts a call center about one of the DBS Labs' products, the customer service representative responds by visiting the retailer's web site that generated the consumer's inquiry and describing the product by reemphasizing the representations set forth on that web site.

**Specification 4. All documents, including but not limited to tests, reports, studies, scientific literature, and written opinions, you relied upon as substantiation for each of the following claims, regardless of whether you believe each claim is made in your advertisements or promotional materials:**

- a. Pedia Loss suppresses children's appetite;**
- b. Pedia Loss increases fat burning in children;**
- c. Pedia Loss slows children's absorption of carbohydrates;**
- d. Pedia Loss allows children to eat their favorite foods without gaining weight;**
- e. Apimin-AM significantly increases metabolism and burns fat;**
- f. Apimin-AM suppresses appetite and thereby helps users control their weight;**
- g. Apimin-AM causes or contributes to significant weight loss;**
- h. Apimin-PM significantly increases fat metabolism and suppresses appetite;**
- i. Apimin-PM causes or contributes to significant weight loss;**

DBS LABORATORIES, LLC

- j. **Apimin-PM can help users lose up to 20 pounds in 8 weeks;**
- k. **Carb-Crusher blocks digestion and absorption of dietary sugars and starches;**
- l. **Taking two capsules of Carb-Crusher has been scientifically shown to block absorption of 50 percent of the carbohydrates in a meal;**
- m. **Carb-Crusher helps prevent weight gain from carbohydrate or starch intake;**
- n. **Carb-Crusher causes or contributes to significant weight loss without the need to diet or exercise;**
- o. **Carb-Crusher has been scientifically shown to cause weight loss of 10 pounds per month without any changes in diet or exercise;**
- p. **Fat-Fighter traps fat molecules and prevents their absorption into the bloodstream;**
- q. **Fat-Fighter can attract and hold up to six times its weight in fat;**
- r. **Fat-Fighter causes or contributes to significant weight loss;**
- s. **Thermo-Loss significantly increases metabolism and burns calories and fat;**
- t. **Thermo-Loss binds to and blocks the absorption of fat; and**
- u. **Thermo-Loss causes or contributes to significant weight loss.**

**Response:** DBS Labs does not believe that all of the claims above are made in its advertisements and promotional materials. However, for purposes of clarity and completeness,

**DBS LABORATORIES, LLC**

the Company has included each of the claims specified in the CID issued to USA Prescriptions, Inc.

Please note that DBS Labs was incorporated in March 2003, but only started selling the products in Specification 1 in August 2003. Prior to product launch, the Company, with the assistance of consultants, compiled information to establish a reasonable basis to substantiate all product claims. In part, that information was collected and compiled under the name "Health Tek Laboratories."

The relevant substantiation for each product is indicated below:

**Response: Subparts a-d**

Responsive documents are provided herein and Bates labeled DBS 0001 – DBS 0010, DBS 0980 – DBS 0990, DBS 1034 – DBS 1168, and *passim*.

**Response: Subparts e-g**

Responsive documents are provided herein and Bates labeled DBS 0011 – 0023, DBS 0999 – DBS 1011 and *passim*.

**Response: Subparts h-j**

Responsive documents are provided herein and Bates labeled DBS 0024 – 0029, DBS 0991 – DBS 0994 and *passim*.

**Response: Subparts k-o**

Responsive documents are provided herein and Bates labeled DBS 0030 – 0036, DBS 1020 – DBS 1033 and *passim*.

**Response: Subparts p-r**

Responsive documents are provided herein and Bates labeled DBS 0037 – DBS 0041, DBS 1012 – DBS 1019 and *passim*.

**DBS LABORATORIES, LLC**

**Response: Subparts s-u**

Responsive documents are provided herein and Bates labeled DBS 0042 – DBS 0046, DBS 0995 – DBS 0998 and *passim*.

**Specification 5. All documents that tend to call into question or disprove any of the claims listed in Specification 4.**

**Response:** There are no responsive documents.

**Specification 6. All laboratory tests and analyses of the products identified in Specification 1 and their ingredients.**

**Response:** Responsive documents are provided herein and Bates labeled DBS 1170 – DBS 1171.

**Specification 7. All documents referring to or relating to any clinical study of the products identified in Specification 1, or any clinical study conducted by you or on your behalf on any product with a formulation similar to products identified in Specification 1, whether or not the study was completed or published, including but not limited to:**

- a. **All draft and final protocols;**
- b. **All data, including baseline and outcome measurements for all subjects enrolled in the study, including any subjects who may not have completed the study,**
- c. **All instructions provided to study participants;**
- d. **All logs filled out by each of the subjects enrolled in the study, including any subjects who may not have completed the study;**
- e. **All compliance data for each of the subjects enrolled in the study, including and subjects who might not have completed the study;**
- f. **Copies of each of the test instruments used in the study; and**

DBS LABORATORIES, LLC

- g. All other documents not explicitly referenced herein that were used by the researchers to obtain data, determine subject non-compliance, or otherwise provide guidance regarding the execution of the study.
- h. All communications, with any persons or entities, referring or relating to the study.

Response: There are no responsive documents.

**Specification 8.** All documents constituting, referring to, or relating to marketing plans or strategies for the products identified in Specification 1. This includes, but is not limited to, all marketing studies and surveys conducted regarding the products.

Response: There are no responsive documents.

**Specification 9.** All documents constituting, referring to, or relating to any media, creative, or copy strategy, creative planning, or creative review for each advertisement or package label requested in Specifications 1 and 2.

Response: There are no responsive documents.

**Specification 10.** All documents constituting, referring to, or relating to market or consumer research, regardless of whether completed or merely proposed, whether qualitative, empirical, or otherwise, referring or relating to any advertisement or draft advertisement or package label requested in Specifications 1 and 2.

Response: There are no responsive documents.

**Specification 11.** All documents constituting, referring to, or relating to consumer complaints you received about the products identified in Specification 1, including but not limited to requests for refunds, and your responses.

**DBS LABORATORIES, LLC**

**Response:** DBS Labs has received no consumer complaints regarding the subject products.

**Specification 12.** All documents constituting, referring to, or relating to any communications between you and the FDA, or any other federal, state, or local government agency or entity, referring or relating to products identified in Specification 1, including but not limited to notifications made pursuant to Section 6 of the Dietary Supplement Health and Education Act of 1994, 21 U.S.C. § 343(6).

**Response:** There are no responsive documents.

**Specification 13.** All documents constituting, referring to, or relating to any communications between you and any Better Business Bureau, consumer group, or consumer protection entity referring or relating to products identified in Specification 1.

**Response:** There are no responsive documents.

**Specification 14.** Each U.S. Internal Revenue Service Corporate Tax Filing, profit and loss statement, and balance sheet for USA Prescription, Inc. from 2001 to the present.

**Response:** DBS Labs was incorporated in March 2003. There are no responsive documents.

**DBS LABORATORIES, LLC**

**Interrogatory 1. For USA Prescription, Inc., state its full legal name, principal address, telephone number, state and date of incorporation or licensing, and all other names under which the company has done business, and identify all of its officers, directors, principals, and shareholders with five percent or more ownership, stating each shareholder's percentage of ownership.**

**Response:**

DBS Laboratories, LLC  
1485 North Park Dr.  
Weston, FL 33326  
Tel: (954) 888-4013

Incorporated: March 2003

Chhabra International Ltd. owns a 75% interest.  
Jonathan Barash owns a 25% interest.

**Interrogatory 2. For each advertisement requested in Specification 2 of the CID for Documents, describe fully the dates, times, and locations the ads were disseminated. For print ads, identify every publication, date, and community of dissemination; for television or radio ads, provide every network, system or station, date, and community of dissemination; for all other materials, provide sufficient information to permit a determination of how many items were disseminated, when, where, and to whom.**

**Response:** Responsive information is provided in the document Bates labeled DBS 1169.

**Interrogatory 3. Identify each of the persons or entities listed below and describe the role, if any, that that person or entity plays in the ownership, manufacturing, packaging, advertising, marketing (including telemarketing, web site design), sale, and distributing (including fulfillment) of the products identified in Specification 1 of the CID for Documents:**

**DBS LABORATORIES, LLC**

**a. Dynamic Health Products, Inc.**

**Response:** This entity has no role with respect to the subject products. DBS Labs is not aware of the existence of this entity.

**b. Dynamic Health International Ltd., Dublin, IE**

**Response:** This entity has no role with respect to the subject products.

**c. Mandeep Taneja**

**Response:** DBS Labs does not know this person.

**d. Coral Pharmaceuticals, Inc.**

**Response:** DBS Labs believes that this entity is the owner of USA Prescriptions, Inc., an Internet retailer of the subject products.

**e. Delta Body Systems Institute, Inc.**

**Response:** This entity has no role with respect to the subject products.

**f. DBS Laboratories**

**Response:** This entity is a limited liability company that acquires product formulations, coordinates the manufacturing of dietary supplements, and distributes those supplements.

**g. Brian Yusem**

**Response:** This individual has no role with respect to the subject products.

**h. USA Prescription, Inc.**



**DBS LABORATORIES, LLC**

**Response:** This entity is an Internet retailer of the subject products.

**i. Chhabra Group LLC**

**Response:** This entity is a management company. Chhabra Group personnel serve as consultants to DBS Labs.

**j. Chhabra Internet Support Center LLC**

**Response:** This entity operates a call center and provides customer service functions related to the subject products.

**k. Chhabra Internet Fulfillment Services LLC**

**Response:** This entity provides fulfillment services for the subject products.

**l. Chhabra Management LLC**

**Response:** This entity has no role with respect to the subject products.

**m. Metability of Florida LLC**

**Response:** This entity provides web-hosting and software services to DBS Labs.

**n. Metability, LLC**

**Response:** This entity has no role with respect to the subject products.

**o. 1800INKJETS LLC**

**Response:** This entity has no role with respect to the subject products.

**DBS LABORATORIES, LLC**

**p. Vincent K. Chhabra**

**Response:** This individual is the CEO of Chhabra Group LLC, the entity that provides consulting services to DBS Labs.

**q. Carleta Carolina**

**Response:** DBS Labs believes that this individual is the owner of USA Prescriptions, Inc., an Internet retailer of the subject products.

**r. Sabina Faruqui**

**Response:** This individual is an employee of Chhabra Group, LLC.

**Interrogatory 4. For each person or entity listed in interrogatory 3, describe the relationship to each other person or entity on the list.**

**Response:** Please see responses to Interrogatory #3, incorporated herein by reference.

**Interrogatory 5. Identify, by name, address, and telephone number, all individuals and companies, including but not limited to advertising agencies, telemarketing firms, marketing firms, public relations firms, and production companies, who have participated in anyway in the sales of the products identified in Specification 1 of the CID for Documents or the development, preparation, or placement of the advertisements, promotional materials, package labels, and inserts requested in Specification 2 of the CID for Documents. Include in your answer a brief description of the services that each individual and/or company has provided.**

**Response:**

For advertisement, label and packaging creation:

Kreating, LLC  
1485 N Park Dr

**DBS LABORATORIES, LLC**

Weston, FL 33326  
Tel: (954) 888-4000

For coordination of media purchases:

Chhabra Group, LLC  
1455 N Park Dr.  
Weston, FL 33326  
Tel: (954) 888-4000

For public relations services:

Hill, Knowlton, & Samcor  
2100 Ponce de Leon Blvd.  
Suite 1201  
Coral Gables, FL 33134  
Tel: (305) 443-5454

**Interrogatory 6. Identify, by name, business address, and telephone number:**

- a. All individuals and companies whom you have authorized to sell the products identified in Specification 1 of the CID for Documents; and**

USAPrescription.com  
AtCostMeds.com  
AmericanMedsRx.com  
RapidPharmacy.com  
24X7Meds.com  
24HourDrugstore.com  
CVS Online Pharmacy Store  
MedPharmacy.com  
Feelingwell.com  
DynamicHealthProducts.com  
USARx.com  
MedPharmacy.com  
247Drugstore.com  
SelectPharmacy.com  
ClickMeds.com  
MedPrescribe.com

**DBS LABORATORIES, LLC**

EPrescribe.com  
FastMedRx.com  
E-Pillsshop.com  
RxClinic.com  
EasyRxPharmacy.com  
Active-Prescriptions.com  
SafeWebMedical.com

- b. **All individuals and companies who have authorized or licensed you to market the products identified in Specification 1 of the CID for Documents, or any of the ingredients contained therein.**

**Response:** There are no such authorizations or licenses.

**Interrogatory 7. Identify all experts whom you consulted, or upon whose advice, opinion, or expertise you relied to substantiate the claims set forth in Specification 4 of the CID for Documents.**

**Response:**

Pharmachem Laboratories, Inc.  
265 Harrison Avenue  
Kearny, NJ 07032  
Tel: (800) 526-0609 or (201) 246-1000

Vanson HaloSource, Inc.  
14716 NE 87th Street  
Redmond, WA 98052  
Tel: (425) 881-6464  
Fax: (425) 882-2476

Dr. Alberto Guzman  
1605 Osceola St  
Johnson City, TN 37604.

Nutrition Formulators  
Beacon Industrial Park  
11005 NW 33rd Street  
Miami, FL 33172

**DBS LABORATORIES, LLC**

Tel: (305) 592-2111  
Fax: (305) 592-5551

**Interrogatory 8. For each of the products identified in Specification 1 of the CID for Documents:**

- a. Identify by name and quantity each ingredient contained the recommended dosage, and**

**Response:** This information is identified in the documents Bates labeled DBS 1170 – DBS 1171.

- b. Provide the name, business address, and telephone number of the manufacturer of the product and its ingredients.**

**Response:**

Nutrition Formulators  
Beacon Industrial Park  
11005 NW 33rd Street,  
Miami, FL 33172  
Tel: (305) 592-2111  
Fax: (305) 592-5551

Highland Laboratories  
110 South Garfield Street  
Mount Angel, OR 97362  
Tel: (503) 845-9223

**Interrogatory 9. For each of the products identified in Specification 1 of the CID for Documents, provide the following information: the product name; the per unit price to consumers; the number of units sold in each of 2001, 2002, and 2003 to date; your gross sales revenue for each of 2001, 2002, and 2003 to date; and the advertising expenditure for the product in 2001, 2002, and 2003 to date. If you maintain financial data on a fiscal year schedule that differs from the calendar year schedule, provide this data according to those fiscal years and identify the dates of the fiscal year.**

**DBS LABORATORIES, LLC**

**Response:** Since August 2003, when the products were first sold, gross sales amount to \$19,000.

The total number of units sold per product is listed below:

ThermoLean - 66  
Carb-Control - 176  
Fat-Fighter - 213  
Apimin-AM - 58  
Apimin-PM - 53  
Pedia Loss - 225

Advertising expenditures were incurred for two products, Fat-Fighter and Carb-Control, and amounted to \$152,000 for 2003. There were no other advertising expenditures for the other subject products.

**Interrogatory 10. State your gross sales revenue for 2001, 2002, and 2003 to date. If you maintain financial data on a fiscal year schedule that differs from the calendar year, provide the total gross sales revenue according to those fiscal years and identify the dates of the fiscal year.**

**Response:** Since August 2003, when the products were first sold, gross sales amount to less than \$19,000.

**Interrogatory 11. Identify, by name, address, telephone number, and website address (URL), each USA Prescription affiliate that operates a website that features information about one or more of the products identified in Specification 1 of the CID for Documents, and state, with regard to those products, what assistance you, or any of the other entities identified in Specification 3 of this CID, provided to such sites in connection with advertising, marketing (including telemarketing), and sales (including fulfillment) of those products.**

**Response:** DBS Labs operates the following two informational web sites: [www.dynamichealthproducts.com](http://www.dynamichealthproducts.com) and [www.dbslabs.com](http://www.dbslabs.com).



**Arent Fox Kintner Plotkin & Kahn, PLLC**  
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Washington, DC 20036-5339  
Phone 202/857-8000  
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December 17, 2003

**Brian P. Waldman**  
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**BY FACSIMILE AND FEDERAL EXPRESS**

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Janet Evans, Esq.  
Sydney Knight, Esq.  
Federal Trade Commission  
Division of Advertising Practices  
601 New Jersey Ave. N.W.  
Washington, D.C. 20580

Re: DBS Laboratories, LLC

Dear Ms. Evans and Mr. Knight:

As noted in our letter to you dated December 12, 2003, and incorporated herein, DBS Labs intends to fully cooperate with the FTC to resolve any questions it may have regarding the Company's products. To that end, DBS Labs promised to supplement its original response voluntarily whenever additional relevant documents are identified.

Accordingly, please find documents Bates labeled DBS 1172 – DBS 1174 that are responsive, including but not limited to Specification 6 of the CID issued to USA Prescriptions, Inc.

Please contact us if you have any questions.

Sincerely,

Brian P. Waldman

James A. Kaminski

Enclosures

**EXHIBIT B**

**QUALITY CONTROL LABORATORY TEST REPORT  
CERTIFICATE OF ANALYSIS**

**ANALYTICAL REPORT**

<b>PRODUCT:</b>	<b>PEDIA LOSH</b>	<b>CUSTOMER:</b>	
<b>MANUFACTURE'S CODE:</b>	<b>BK00034-T</b>	<b>EXPIRE DATE:</b>	<b>07/2006</b>
<b>LOT N°</b>		<b>WEIGHT VARIATION:</b>	
<b>DESCRIPTION:</b>	<b>TABLETS</b>	<b>AVERAGE WEIGHT:</b>	<b>1634.5 mg</b>
<b>COLOR:</b>	<b>Pink</b>	<b>MINIMUM WEIGHT:</b>	<b>1553 mg</b>
<b>SIZE:</b>	<b># 5/8" std</b>	<b>MAXIMUM WEIGHT:</b>	<b>1716 mg</b>

**PHYSICO-CHEMICAL TEST**

TEST	CLAIM	RESULT	REFERENCE
<b>ACTIVE INGREDIENT: Each tablet contains:</b>			
<b>FOS (Fructo-Oligosaccharides)</b>	100 mg	150 mg	<b>AOAC</b>
<b>Inulin</b>	500 mg	50 mg	<b>AOAC</b>
<b>L-Glutamine</b>	400 mg	50 mg	<b>USP 24-NF 19</b>
<b>Lecithin</b>	100 mg	25 mg	<b>USP 24-NF19</b>
<b>HCA (Hydrochloric Acid from <i>Candida</i> <i>Crotonella</i> 50% extract)</b>	25 mg	12.5 mg	<b>Ind. Labs.</b>
<b>Citric Acid (from natural sources)</b>	2 mg	2 mg	<b>USP 24-NF19</b>
<b>EXCIPIENTS</b>			
Magnesium Stearate Veg.....	10 mg		
Carnauba Wax.....	40 mg		
Sylold.....	20 mg		
Megtab.....	961.8 mg		
Strawberry flavor.....	120 mg		
Carmin Color.....	1.2 mg		
Steric Acid.....	40 mg		
<b>DISINTEGRATION</b>	<b>&lt;45 min</b>		<b>USP 24</b>

**MICROBIOLOGICAL TEST**

<b>Salmonella</b>	<b>NEGATIVE</b>	<b>NEGATIVE</b>	<b>USP 24</b>
<b>E. coli</b>	<b>NEGATIVE</b>	<b>NEGATIVE</b>	<b>USP 24</b>
<b>Total Count</b>	<b>&lt;1.000/g</b>	<b>PASSED</b>	<b>USP 24</b>

**DATE: 07/2003**

**SIGNED:** Virginia Diaz  
Virginia Diaz, Chem  
Quality Assurance Manager

QMP.COM/02a

**METHODOLOGY: QUALITY ASSURANCE & TESTING.**

**DBS 1172**





**NUTRITION  
FORMULATORS**

**CERTIFICATE OF ANALYSIS**

**PRODUCT: Amino - AM**  
**FORMULA # B1075**

LOT #282893

MANUFACTURING DATE: 08 / 2003  
EXPIRATION DATE: 08 / 2006

**PHYSICAL-CHEMICAL ANALYSIS**

ASSAY	SPCIFICATION	RESULT	METHOD
DISINTEGRATION	NO MORE THAN 45 MINUTES	<u>20 min.</u>	USP 24 <240>
WEIGHT VARIATION	AVERAGE WEIGHT 800 mg ± 5%	<u>0.2%</u>	USP 24 <201>
APPEARANCE	Capsule con "d", 0.8	<u>Colorless</u>	N.F. (2011F.01)
COLOR	Blue/Yellow	<u>(conform)</u>	N.F. (2011F.01)

ACTIVE INGREDIENT (mg/ Capsule)	THEORETICAL	ACTUAL
Parathenic Acid	25.0 mg	<u>25.0 mg</u>
Iodine	0.075 mg	<u>0.075 mg</u>
L-Tyrosine USP / FCC	75.0 mg	<u>75.0 mg</u>
Thyroid powder	12.5 mg	<u>12.5 mg</u>
Proprietary Blend (Containing 100 mg)	300.0 mg	<u>300.0 mg</u>
Guar gum powder	100.0 mg	<u>100.0 mg</u>
Citrus Aurantium (Oral past powder)	22.5 mg	<u>22.5 mg</u>
Green Tea Standard Extract	50.0 mg	<u>50.0 mg</u>
Wild Yam 4% Ginsenosides	25.0 mg	<u>25.0 mg</u>
White Willow Bark Extract 4:1	10.0 mg	<u>10.0 mg</u>
Ginger Root Powder	100.0 mg	<u>100.0 mg</u>

Excipients: Cellulose, Polyethylene Glycol, Magnesium Stearate, and Colloidal Silicon Dioxide.

\* THESE INGREDIENTS ARE VERIFIED BY THE ANALYSIS OF RAW MATERIAL ADDED TO THE BATCH.

**MICROBIOLOGICAL ANALYSIS**

ASSAY	SPCIFICATION	RESULT	METHOD
SALMONELLA	NEGATIVE	<u>Negative</u>	USP 24 <621>
E. COLI	NEGATIVE	<u>Absent</u>	USP 24 <621>
S. ALBERGII	NEGATIVE	<u>Negative</u>	USP 24 <621>

INSPECTIONS ISSUED BY: [Signature]  
ANALYSIS PERFORMED BY: [Signature]  
ANALYSIS APPROVED BY: [Signature]

DATE: 9/10/03  
DATE: 9/15/03  
DATE: 9/16/03

11005 NW 33rd Street Dcacon Industrial Park, Miami, FL 33172  
Ph: (305) 592-2111 • Fax: (305) 592-5551 • www.nutritionformulators.com

DBS 1173



**NUTRITION  
FORMULATORS**

**CERTIFICATE OF ANALYSIS**

**PRODUCT: PR1058Aptimin - PM  
FORMULA # B1737**

LOT # B2940803

MANUFACTURING DATE: 08 / 2008  
EXPIRATION DATE: 08 / 2008

**PHYSICAL-CHEMICAL ANALYSIS**

ASSAY	SPECIFICATION	RESULT	METHOD
DISSOLUTION	NO MORE THAN 45 MINUTES	<u>20 min.</u>	USP 24 <202>
WEIGHT VARIATION	AVERAGE WEIGHT 300mg ± 5%	<u>1.5%</u>	USP 24 <202>
APPEARANCE	Capsule size * 6, C.S.	<u>Large Pink</u>	N.F. (2011)
COLOR	Blue/Light Purple/White	<u>Light Pink</u>	N.F. (2011)

**ACTIVE INGREDIENT  
(mg/Capsule)**

**THERAPEUTIC**

**ACTUAL**


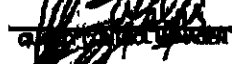

Chromium (Chromium Polynicotinate 14% Cr)	0.05 mg	<u>0.05 mg</u>
HCA (Carbolic Cambogia Extract 88% HCA granules)	250.0 mg	<u>250.0 mg</u>
Gymnema Sylvestre Leaf Powder	25.0 mg	<u>25.0 mg</u>
Vanadyl Sulfate	4.0 mg	<u>4.0 mg</u>

Excipients: Silica, Dicalcium Phosphate, Magnesium Stearate, and Gelatin (from capsule).

\* THESE INGREDIENTS ARE VERIFIED BY THE AMOUNT OF RAW MATERIAL ADDED TO THE BATCH.

**MICROBIOLOGICAL ANALYSIS**

ASSAY	SPECIFICATION	RESULT	METHOD
SALMONELLA	NEGATIVE	<u>Negative</u>	USP 24 <302>
E. COLI	NEGATIVE	<u>Negative</u>	USP 24 <302>
S. AUREUS	NEGATIVE	<u>Negative</u>	USP 24 <302>

SPECIFICATIONS ISSUED BY:   
ANALYSIS PERFORMED BY:   
ANALYSIS APPROVED BY:   
(TECHNICAL DIRECTOR)

DATE: 9/15/03  
DATE: 9/15/03  
DATE: 9/18/03

11005 NW 33rd Street Beacon Industrial Park, Miami, FL 33172  
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DBS 1174



**Arent Fox Kintner Plotkin & Kahn, PLLC**  
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February 3, 2004

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**BY FACSIMILE AND FEDERAL EXPRESS**

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Re: DBS Laboratories, LLC

Dear Ms. Evans and Mr. Knight:

Enclosed please find our response to your request for additional information and clarifications pertaining to our letter to you, dated December 12, 2003. As we have noted throughout this inquiry, DBS Laboratories, LLC, is committed to cooperating with the FTC to resolve any concerns it may have about the subject products. Accordingly, any revisions to the December 12 letter represent a good faith effort to ensure that information submitted to the FTC is accurate.

In reference to Interrogatory 9, the document Bates labeled DBS 1175 and enclosed herein lists the amount of units sold, the total revenue earned, and the individual selling price for each subject product. Please note that the data are presented according to retail and wholesale sales information. As you requested, information pertaining to Fabulously Feminine is also included.

Regarding Interrogatory 10, we have been informed that gross revenue for 2003 amounted to \$52,185.64.

Please contact us if you have any questions.

Sincerely,

Brian P. Waldman

James A. Kaminski

Enclosures

**EXHIBIT C**

<b>Retail</b>				
<b>Item Num</b>	<b>Item Name</b>	<b>Item Count</b>	<b>Revenue</b>	<b>Unit Price</b>
5003	Fabulously Feminine	228	9,108.60	39.95
	<b>WEIGHT LOSS</b>			
5004	ThermoLean	19	569.05	29.95
5005	Carb-Control	130	5,193.50	39.95
5006	Fat-Fighter	194	5,810.30	29.95
5007	Apimin-AM	27	970.65	35.95
5008	Apimin-PM	11	329.45	29.95
5009	Pedia Loss	198	11,870.10	59.95
<b>Totals:</b>			<b>24,743.05</b>	

<b>Wholesale</b>				
<b>Item Num</b>	<b>Item Name</b>	<b>Item Count</b>	<b>Revenue</b>	<b>Unit Price</b>
5003	Fabulously Feminine	144	2,877.12	19.98
	<b>WEIGHT LOSS</b>			
5004	ThermoLean	48	719.04	14.98
5005	Carb-Control	48	959.04	19.98
5006	Fat-Fighter	48	719.04	14.98
5007	Apimin-AM	48	863.04	17.98
5008	Apimin-PM	48	719.04	14.98
5009	Pedia Loss	48	1,200.00	25.00
<b>Totals:</b>			<b>5,179.20</b>	