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

FEB 2 2 2005

In the Matter of	)
	)
BASIC RESEARCH, LLC	)
A.G. WATERHOUSE, LLC	)
KLEIN-BECKER USA, LLC	Ĵ
NUTRASPORT, LLC	)
SOVAGE DERMALOGIC LABORATORIES, LLC	ý
BAN, LLC d/b/a BASIC RESEARCH, LLC	) ·
OLD BASIC RESEARCH, LLC,	<b>)</b>
BASIC RESEARCH, A.G. WATERHOUSE,	Ĵ
KLEIN-BECKER USA, NUTRA SPORT, and	Ĵ
SOVAGE DERMALOGIC LABORATORIES	ý
DENNIS GAY	ý
DANIEL B. MOWREY d/b/a AMERICAN	Ś
PHYTOTHERAPY RESEARCH LABORATORY, and	Ś
MITCHELL K. FRIEDLANDER,	
Respondents.	ý

Docket No. 9318

## **ORDER ON RESPONDENTS' REQUEST FOR EXPEDITED BRIEFING**

On February 18, 2005, Respondents filed an emergency motion seeking an order compelling the Commission to provide Respondents with electronic files showing who accessed Respondents' confidential information while it was on the Commission's public website and requesting expedited briefing. On February 18, 2005, Complaint Counsel filed a partial response ("Response") to Respondents' emergency motion which requested additional time to file a supplemental response.

Respondents' allegations raise serious questions regarding the handling of proprietary information. Adherence to the Commission's Rules of Practice and the Protective Order Governing Discovery Material, issued August 11, 2004, is fundamental to the Part 3 adjudicative process. Upon review of the pleadings filed, there are insufficient facts to make a determination on the issues raised by Respondents' motion. Additional facts are necessary in order to fairly and adequately address Respondents' motion. Accordingly, Complaint Counsel shall file a supplemental pleading which includes sworn statements from any member of Complaint Counsel – not including the Office of the Secretary or other offices within the FTC not related to the prosecution of this case – who has knowledge of the events raised by Respondents' motion. The sworn statements shall include, but are not limited to, all non-privileged information regarding:

(1) what, when, and in what format (*i.e.*, by hard copy, data disk, or email; *see* Rule 4.2(c)(3)) the information at issue was filed and how such information was marked or labeled; (2) a good faith estimate of what may have been disclosed to the public that should not have been disclosed to the public; and (3) what steps have been taken and are being taken by Complaint Counsel regarding the possible disclosure of confidential information.

Accordingly, Respondents' request for expedited briefing is **GRANTED**. Complaint Counsel shall file its supplemental response and sworn statements by February 25, 2005. Complaint Counsel shall take all necessary steps to preserve the electronic files which may contain information relevant to the issues raised by Respondents' motion.

**ORDERED**:

Stephen J. McGurre Chief Administrative Law Judge

Date: February 22, 2005