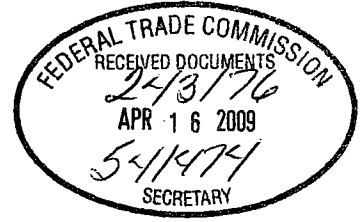


ORIGINAL



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

)
In the Matter of)
DANIEL CHAPTER ONE,)
a corporation, and)
)
)
JAMES FEIJO,)
Individually, and as an officer of)
Daniel Chapter One.)
_____)

DOCKET NO. 9329

PUBLIC DOCUMENT

**Hearing: April 21, 2009
10:00 a.m.**

**RESPONDENTS' REPLY TO COMPLAINT COUNSEL'S
PRE-HEARING BRIEF ON JURISDICTION**

Pursuant to the Court's March 31, 2009 Order, Respondents respectfully submit their Reply to Complaint Counsel's Pre-Hearing Brief on Jurisdiction.

I. INTRODUCTION

Respondent James Feijo is the overseer of respondent Daniel Chapter One, a Corporation Sole recognized under the laws of the State of Washington. Under a Corporation Sole the overseer is sole decision maker for the entity. The responses, including financial information, provided by Respondents during discovery make clear that Daniel Chapter One is a small (with an approximately \$2 million per year gross, in a country where consumers spend \$28 billion annually on dietary supplements) entity, engaging with approximately 1000 people who share their view of health as integrating body mind and sprit, that is very frugal with its assets.

Complaint Counsel counters this evidence by claiming that the Feijos enjoy a lavish life style, and cites American Express bills of \$51,000 between January 2006 and February 2009 for expenditures Complaint Counsel considers luxurious spending.¹ According to Complaint Counsel these expenditures include \$20,254.46 on 1/24/07 at Hopkins Motor Company. This expenditure is for a van used by Daniel Chapter One's Accent Radio Network on which its programs are carried. See Declaration of James Feijo at Exhibit 1.

Complaint Counsel also cites expenditures of \$611.65 on 10/11/08 at MA Goetzingers (Complaint Counsel calls this low end casual clothing store a "shoe store"), \$451.28 at the Castle Hill Restaurant in Newport, Rhode Island on 9/19/08, and \$635.75 at the Bedding Barn in Deerfield Beach, Florida on 12/2/08. The Castle Hill expense was for a lunch meeting of 14 people who are the supporters, associates and lawyers that make up Respondents' legal team. The restaurant did not charge its usual fee of \$500 for the room. The Bedding Barn cost was for two folding beds to be used in the radio room of DCO's Deerfield Beach building for a second meeting of the legal team, instead of paying for three nights in a local hotel for lawyers and others from out of town. See Exhibit 1.

Complaint Counsel also argues that P.F. Chang's, Ruby Tuesday and Fuji Asian Fusion are inconsistent with the Feijos' philosophy of avoiding "unwholesome, artificial food of the modern world." In fact, Asian restaurants have food more compatible with the traditional food (brown rice, fresh vegetables, etc.) and Ruby Tuesday has a fresh salad

¹ Respondents and their counsel did not receive the American Express statements until the day that their Brief on Jurisdiction was due, making this the first opportunity to present information concerning their significance. The allegations made by Complaint Counsel based on the American Express Statements are analyzed in more detail in Section III of this Reply.

bar. In addition, the Feijos rarely eat out at all, as the credit card records show. See Exhibit 1.

In short, the evidence provided by both Respondents and Complaint Counsel demonstrates that Respondent James Feijo leads a frugal life and that the resources of the Respondent corporation sole Daniel Chapter One are frugally husbanded. These facts support Daniel Chapter One's status as a non profit religious corporate sole over which the FTC lacks jurisdiction.

II. FACTUAL BACKGROUND CONCERNING DCO'S ORGANIZATION AS A CORPORATION SOLE

A. DCO's Origins And Continuous Existences As A Non Profit Entity

The missionary activities, including the providing of healthy food to people desiring it, of which Daniel Chapter One the store is a part, began at least as early as 1983. See Respondents' Pre-Hearing Brief for the chronology of the Daniel Chapter One missionary activities.

Complaint Counsel alleges that "From 1990 through 1998, DCO was organized as a for-profit corporation in Rhode Island, with James Feijo as President."² In fact the record that contains the file Complaint Counsel relies on for this statement shows a notice of revocation for DCO, Inc. in 1994. The records do not show that any Annual Reports

² Based on part of the state files that they obtained online Complaint Counsel says "Daniel Chapter One, Inc., identified as a "Domestic *Profit* Corporation" by the Rhode Island Secretary of State's Office, had its principal office at 2749 East Main Road, Portsmouth, Rhode Island 02871. Almost concurrently, from 1991 to 1998, James Feijo was the President of 'World Sports Nutrition, Inc.,' another 'Domestic Profit Corporation' located at the same Rhode Island address." The total file establishes conclusively that DCO was not run as a corporation under Rhode Island law for most of the time in question and suggests strongly that it never was qualified to be recognized as a corporation. Mr. Feijo's affidavit explains that the filings in question were not done by him and he rejected them when he learned that they required DCO to be something that it was not. The same is true of World Sports Nutrition. It is unclear why Complaint Counsel failed to provide the entire file on which it based its points, but it is clear that the entire file undermines its assertions.

were filed prior to the revocation notice. This would indicate that for some period of time that the organization had not been in compliance with the state corporation laws. See Exhibit 1 to Respondents' Opposition to Complaint Counsel's Motion and Memorandum to Modify Complaint Counsel's Final Exhibit List and to Introduce New Evidence to the Court on Respondents' For-Profit Legal Status.

(Essentially the same facts apply to World Sports Nutrition, a “doing business as” name Daniel Chapter One used for its activities in China with the Chinese government since its hosts indicated that a Christian name would not go well with the Chinese government. WSN received a notice of revocation just over a year after its corporate recognition indicating that it never met the requirements of being a corporation under Rhode Island law. See Exhibit 2 to Respondents' Opposition to Complaint Counsel's Motion and Memorandum to Modify Complaint Counsel's Final Exhibit List and to Introduce New Evidence to the Court on Respondents' For-Profit Legal Status.

James Feijo has previously executed a declaration, indicating that at no time did Daniel Chapter One operate with a board, officers or maintain financial records—all in accordance with instructions Mr. Feijo finds in the Bible. He indicates in his declaration that at the time the records show that these filings were made he was engaged in China, had serious health problems and had help from others in managing Daniel Chapter one. He indicates that what he recalls of these filings is that when at the time he learned the meaning of the filings he told his helpers not to file any further such documents since DCO was not a corporation. See Exhibit 3 to Respondents' Opposition to Complaint Counsel's Motion and Memorandum to Modify Complaint Counsel's Final Exhibit List

and to Introduce New Evidence to the Court on Respondents' For-Profit Legal Status, Declaration of James Feijo.

From its inception in or before 1983 through the creation of its health food store and until the recognition of DCO as a Corporation Sole by the State of Washington on October 30, 2002, Daniel Chapter One existed as an unincorporated non profit religious association.

B. DCO's Status As Corporate Sole

Complaint Counsel argues that some people abuse the corporate sole laws and therefore... There is, however, no “therefore” in their argument. Complaint Counsel just supplies a series of statements that say that individuals who are not religious are not allowed to be corporate soles. That this is an attempt at misdirection is established by the fact that once again Complaint Counsel provides only part of the important information relevant to the point they appear to be making. Complaint Counsel says “DCO's own registered agent, Rita Johnson, was one such (fraudulent) promoter. *See* Complaint Counsel's Trial Exhibit (hereinafter referred to as CX) 31.”

“Ms. Johnson” they say, “was enjoined by a federal district court from making false statements that a corporation sole does not have to meet the requirements of 26 U.S.C. § 501(c)(3) in order to be tax exempt...” Complaint Counsel does not report the court’s statement that “... Moreover, the injunction does not prohibit Johnson from helping others establish a corporation sole, nor does the injunction make any statement regarding what qualifies as a ‘religion’ or ‘church’ under the Internal Revenue Code. Among other things, the injunction simply prohibits Johnson from doing something she claims she is not doing: providing false or misleading or fraudulent information about the tax benefits

of the corporation sole.” United States v. Johnson, Order Denying Defendant’s Motion for Reconsideration, Case No. C 3:05-cv-05798, (W.D. Wash., filed March 7, 2007)

Ms. Johnson, her lawyers and the whole corporation sole community consider this result to be a sweeping victory. Ms. Johnson was told not to do something she claimed not to be doing. The court specifically said she was free to continue doing what she had been doing as long as no misstatements were made about them and she went on for some time helping people create corporations sole. This is not the impression one would get from Complaint Counsel’s characterizing of these legal proceedings. In fact, the judgment in the case cited by Complaint Counsel reinforces Daniel Chapter One’s legitimate standing as a Corporation Sole.

Complaint Counsel argues that “James Feijo has complete operational control of DCO.” This is another of Complaint Counsel’s non-sequiturs. The very nature of a corporation sole is that the overseer makes all the decisions. If James Feijo did not make all the decisions, Daniel Chapter One would not qualify as a Corporation Sole.

III. CONCLUSION

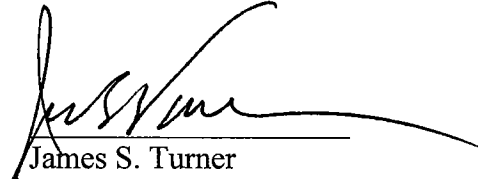
The facts and arguments submitted by Complaint Counsel in its pre-trial brief on jurisdiction reinforce the fact that FTC lacks jurisdiction in this case. Respondent Daniel Chapter One is a corporation sole. Respondent James Feijo, as overseer of Daniel Chapter One, has managed its resources frugally. Daniel Chapter One activities promoting healthy food and nutritional supplements are part of the missionary work that it has engaged in since at least 1983. Respondents respectfully ask this court to determine that the Federal Trade Commission lacks jurisdiction over Respondents Daniel Chapter One and its overseer James Feijo.

Dated: April 15, 2009

Respectfully Submitted,



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Exhibit

1

DECLARATION OF JAMES FEIJO

I, James Feijo, make the following declaration:

1. I have been asked to explain certain expenditures made on an American Express card used for Daniel Chapter One expenses. These include
 - \$20,254.46 on 1/24/07 at Hopkins Motor Company. This expenditure is for a van used by Daniel Chapter One's Accent Radio Network on which the Daniel Chapter One radio programs are carried. Attached to this Declaration is a picture of the van.
 - \$611.65 on 10/11/08 at MA Goetzingers. This is a store that sells very inexpensive casual clothing. We do not have any expensive or fancy clothes.
 - \$451.28 at the Castle Hill Restaurant in Newport, Rhode Island on 9/19/08. This expense was for a lunch meeting of 14 people who are the supporters, associates and lawyers who have helped represent Daniel Chapter One in this case. The restaurant did not charge its usual fee of \$500 for the room.
 - \$635.75 at the Bedding Barn in Deerfield Beach, Florida on 12/2/08. This expense was for two folding beds to be used in the radio room of DCO's Deerfield Beach, Florida building for a second meeting of the legal team, instead of paying for three nights in a local hotel for the lawyers and others from out of town.

2. It has also been claimed that the occasions on which my wife and I ate at P.F. Changs, Ruby Tuesday and Fuji Asian Fusion are inconsistent with our philosophy of avoiding "unwholesome, artificial food of the modern world." In fact, Asian restaurants have food more compatible with traditional food (brown rice, fresh vegetables, etc.), and Ruby Tuesday has a fresh salad bar. In addition, we very rarely eat out at all. We endeavor to live simply and frugally, conserving all the assets of Daniel Chapter One for our missionary work, but we believe that maintaining good health is necessary for us to continue to provide service to the Lord.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15, 2009

[SIGNED COPY TO FOLLOW]

James Feijo

WELLNESS
CONCEPTS

UNIBES
PAIN MANAGEMENT

the SCOOP
ICE CREAM PARLOR
SANDWICH SHOPPE

DANIEL CHAPTER ONE
IN THE BOARDROOM
TODAY JAN. 19
NOON RADIO SHOW LIVE
7 PM - FREEDOM FIGHT

401

