

IN THE UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF OHIO  
 WESTERN DIVISION

FEDERAL TRADE COMMISSION,	)	CIVIL ACTION NO. 1:06cv51
Plaintiff,	)	
v.	)	District Judge S. Arthur Spiegel
	)	
STEVE WARSHAK, BERKELEY PREMIUM	)	<b>MOTION TO DISMISS RELIEF DEFENDANTS</b>
NUTRACEUTICALS, INC., LIFEKEY, INC.,	)	
WARNER HEALTH CARE, INC., and WAGNER	)	
NUTRACEUTICALS, INC.,	)	
Defendants, and	)	
CARRI WARSHAK, HARRIET WARSHAK, and	)	
PAUL KELLOGG in his capacity as trustee,	)	
Relief Defendants.	)	
	)	

Attached to this Motion, Plaintiff Federal Trade Commission (“FTC”) submits to the Court proposed stipulated orders that would resolve this action against the defendants in this action. If the Court enters the proposed stipulated orders, then, through this Motion, the FTC requests that the Court dismiss this action, without prejudice, against Relief Defendants Carri Warshak and Harriet Warshak. Relief Defendants Carri Warshak, who is appearing *pro se*, and Harriet Warshak, through her counsel Jonathan P. Saxton, consent to this motion. In support of the motion, the FTC states as follows:

1. On January 30, 2006, the FTC filed this action against Steve Warshak and his companies, Corporate Defendants Berkeley Premium Nutraceuticals, Inc.; Lifekey, Inc.; Warner Health Care, Inc.; and Wagner Nutraceuticals, Inc. (“Corporate Defendants”). (Doc. 1.)
2. FTC counsel has negotiated with the Trustee an agreement that would resolve the current proceedings against Corporate Defendants. The FTC has approved the agreement, which has been signed by FTC counsel and by the Trustee, on behalf of Corporate Defendants. The

proposed stipulated order is submitted as Attachment A to this Motion.

3. FTC counsel and Mr. Warshak also have negotiated an agreement that would resolve the current proceedings against Mr. Warshak. That agreement has been signed by Mr. Warshak and by FTC counsel. The proposed stipulated order is submitted as Attachment B to this Motion.

4. In light of these settlements, the FTC hereby requests that, if the Court enters the proposed stipulated orders, the Court dismiss the action without prejudice against Relief Defendants Carri Warshak and Harriet Warshak.

5. The FTC is seeking dismissal without prejudice against the Relief Defendants because the proposed stipulated order with Mr. Warshak includes a provision, Section XII, which gives the FTC the option to reopen the action against Mr. Warshak in the event that the forfeiture judgments in the parallel criminal case are reversed, vacated, or modified or specified forfeited assets are returned or released. The dismissal without prejudice ensures that if the FTC reopens the action against Mr. Warshak it will also be able to pursue any forfeited assets that are returned or released to the Relief Defendants.

6. The proposed stipulated orders and dismissal of the action against Relief Defendants would resolve the current proceedings.

DATED: July 21, 2009

Respectfully submitted,

/s/ Harris A. Senturia  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 21, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following: (1) Richard D. Nelson and Donald J. Rafferty, Cohen Todd Kite & Stanford, 250 E Fifth Street , Suite 1200, Cincinnati, OH 45202-4139 and (2) Jonathan P. Saxton, Rendigs, Fry, Kiely & Dennis, LLP, One West Fourth Street, Suite 900, Cincinnati, Ohio 45202. Furthermore, on this day I am sending the foregoing via U.S. mail to *pro se* Defendant Steve Warshak at Steven Warshak, 04431-061, FCI Gilmer, Federal Correction Institute, PO Box 6000, Glenville, WV 26351, via email to his designated recipient, Michelle Snell, at msnellbpn@gmail.com, and to *pro se* Relief Defendant Carri Warshak via U.S. mail at 1880 Whetherstone Ridge, Hebron, KY 41048.

/s/ Mark Morelli  
Mark Morelli  
Attorney for Plaintiff