

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
UNITED STATES OF AMERICA,	)	Civil No. _____
950 Pennsylvania Avenue, N.W.	)	
Washington, DC 20530	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DANIEL CHAPTER ONE, a corporation	)	
1028 East Main Road	)	
Portsmouth, RI 02871	)	
	)	
and	)	
	)	
JAMES FEIJO, individually, and as an officer	)	
of Daniel Chapter One,	)	
1028 East Main Road	)	
Portsmouth, RI 02871	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT FOR CIVIL PENALTIES, INJUNCTION, AND OTHER RELIEF**

Plaintiff, United States of America, acting upon the notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges that:

1. Plaintiff brings this action under Sections 5(l), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(l), 53(b), and 56(a), to obtain monetary civil penalties, a permanent injunction, rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten gains, and other equitable relief from Defendants for their violations of a final Commission order to cease and desist.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(l), 53(b), and 56(a).

3. Venue in the United States District Court for the District of Columbia is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391 (b) and (c) and 1395(a).

**DEFENDANTS**

4. Defendant Daniel Chapter One is incorporated as a “corporation sole” under the laws of the State of Washington. Its principal office or place of business is located at 1028 East Main Road, Portsmouth, Rhode Island, 02871. Daniel Chapter One advertises and sells a variety of products, including dietary supplements. Daniel Chapter One transacts or has transacted business in this district.

5. Defendant James Feijo is the sole member, overseer, and an officer of Daniel Chapter One, and his principal office or place of business is the same as Daniel Chapter One. Individually or in concert with others, he formulates, directs, controls, or participates in the acts or practices alleged in this Complaint. Defendant Feijo transacts or has transacted business in this district.

**COMMERCE**

6. The acts and practices of Defendants as alleged in this Complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**PRIOR COMMISSION PROCEEDING**

7. In a Commission proceeding bearing Docket No. 9329, the Commission charged Defendants Daniel Chapter One and James Feijo (collectively referred to in the Commission

complaint and order as “Respondents”) with violating Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52. Following a trial, an Administrative Law Judge concluded that Defendants violated the FTC Act by making unsubstantiated claims that BioShark, 7 Herb Formula, GDU, and BioMixx prevented, treated, or cured tumors or cancer. The Defendants appealed this decision to the Commission. On December 24, 2009, the Commission upheld the decision and issued a Final Order to cease and desist certain practices. On January 25, 2010, the Commission issued a Modified Final Order (“Order”), which made non-substantive modifications to clarify required time periods in the Final Order. Defendants appealed the Order to the United States Court of Appeals for the District of Columbia Circuit. Defendants also sought stays of the Order pending judicial review before the Commission and then the Court of Appeals; both denied Defendants’ stay motions. On February 1, 2010, the Order was served on Defendants. Pursuant to Section 5(g) of the FTC Act, 15 U.S.C. § 45(g), the Order became effective on April 2, 2010.

8. Among other things, the Order prohibits Defendants from representing that BioShark, 7 Herb Formula, GDU, and BioMixx (“covered products”) prevent, treat, or cure any type of tumor or cancer, without possessing and relying upon competent and reliable scientific evidence that substantiates the representation. The Order also requires Defendants to send a letter to past purchasers of the covered products informing them of the Commission’s conclusion that Defendants’ advertising claims were deceptive because they lacked substantiation.

9. Specifically, the Commission’s Order includes the following provisions:

MODIFIED FINAL ORDER

I.

IT IS HEREBY ORDERED that for purposes of this Order, the following definitions shall apply:

A. “Competent and reliable scientific evidence” shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

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G. “Endorsement” shall mean “endorsement” as defined in 16 C.F.R. § 255.0(b).

II.

IT IS HEREBY ORDERED that Respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of BioShark, 7 Herb Formula, GDU, and BioMixx, or any substantially similar health-related program, service, or product, or any other Covered Product or Service, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of product or program names or endorsements, that such health-related program, service, product, or Covered Product or Service prevents, treats, or cures or assists in the prevention, treatment, or cure of any type of tumor or cancer, including but not limited to representations that:

1. BioShark inhibits tumor growth;
2. BioShark is effective in the treatment of cancer;
3. 7 Herb Formula is effective in the treatment or cure of cancer;
4. 7 Herb Formula inhibits tumor formation;
5. GDU eliminates tumors;
6. GDU is effective in the treatment of cancer;
7. BioMixx is effective in the treatment of cancer; or
8. BioMixx heals the destructive effects of radiation or chemotherapy;

unless the representation is true, non-misleading, and, at the time it is made, Respondents possess and rely upon competent and scientific evidence that substantiates the representation.

V.

IT IS FURTHER ORDERED that:

\* \* \*

- B. Within forty-five (45) days after the final and effective date of this order, Respondents shall send by first class mail, postage prepaid, an exact copy of the notice attached as Attachment A to all persons identified in Part V.A., above [past purchasers of BioShark, 7 Herb Formula, GDU, and/or BioMixx]. The face of the envelope containing the notice shall be an exact copy of Attachment B. The mailing shall not include any other documents;

\* \* \*

**DEFENDANTS' COURSE OF CONDUCT**

10. At all times relevant to this Complaint, Defendants have been engaged in the advertising, promotion, offering for sale, sale, and distribution of dietary supplements to the public, including but not limited to, BioShark, 7 Herb Formula, GDU, and BioMixx. BioShark is a capsule whose primary ingredient is shark cartilage. Defendants sell 100 BioShark capsules for \$31 and 300 for \$67. 7 Herb Formula is a liquid tea concentrate containing, among other things, rhubarb root, sheep sorrel, Siberian ginseng, and cat's claw. Defendants sell a 32 oz. bottle of 7 Herb Formula for \$72. GDU capsules contain, among other things, bromelain, turmeric, quercetin, feverfew, and boron. Defendants sell 120 GDU capsules for \$30 and 300 capsules for \$46. BioMixx is a powder that contains goldenseal, echinacea, and ginseng. Defendants sell a 3 lb. container for \$41.

11. Since April 2, 2010, Defendants have disseminated or caused to be disseminated advertisements for their products, including but not limited to, BioShark, 7 Herb Formula, GDU, and BioMixx.

12. Defendants advertise their products on a call-in radio program airing Monday through Friday on the Accent Radio Network, which is broadcast on many stations around the country. Defendant James Feijo and his wife Patricia Feijo are the hosts of this radio program. Defendants also advertise their products on, among other places, an online bulletin board called the Daniel Chapter One Fellowship, which consumers can access from Defendants' website, <http://dc1fellowship.com>.

13. During the radio show, Defendants receive telephone calls from individuals who discuss various medical conditions, including cancer, and who seek information regarding the prevention, treatment, or cure of those conditions. Defendants encourage other individuals to call into their radio show to answer consumers' questions about which Daniel Chapter One products prevent, treat, or cure medical conditions. Individuals call in response to this request and discuss their experience using Daniel Chapter One products to prevent, treat, or cure their medical conditions, including cancer, and recommend that others use Daniel Chapter One products.

14. The statements on Defendants' radio program include, but are not limited to, the following summary and excerpts of a conversation between Defendant James Feijo ("Jim") and Patricia Feijo ("Tricia") and a caller, Marcia, that occurred during the May 28, 2010 radio show. Marcia called the radio program and stated that her mother had just been diagnosed with pancreatic cancer. James Feijo responded, "well, let me tell you right off the bat, chemo's a lie, radiation's a lie. They've never cured anybody of pancreatic cancer with their chemo and radiation." Patricia Feijo then told Marcia about a Dr. Kelly who "healed his own pancreatic cancer," and James Feijo followed up with, "so there are other options out there." Patricia Feijo continued, by saying:

He healed himself naturally. And he begins his book with it was a blessing in disguise that [he] didn't have health insurance and couldn't go for chemo or radiation. But I just wanted to explain to you, Marcia, that we're under a cease and desist order. **So, Jim and Tricia, at Daniel Chapter One and the other people here . . . can't tell you what Dr. Kelly did or what we have done over**

**the years. . . . But hopefully someone will call in and - - because they've heard you now and will call in and help you out with the kinds of things naturally that your mom can do.** And the other thing is you can join our fellowship and get - - or your mom can directly and get fellowship that way, get ministry, rather. . . . Some health ministry.

(Emphasis added.) James Feijo then gave Marcia detailed instructions for signing up for the fellowship (the online bulletin board), and encouraged other listeners to call in to help Marcia:

So we're going to ask someone to give us a call right now. The other thing is, Marcia, is you can go to [Danielchapteronefreedom.com](http://Danielchapteronefreedom.com). . . . And you can join the DC1 Fellowship and people from all over the country are helping each other, okay? . . . And people with all types of cancers, all people have our materials. . . . Do we have someone with an answer for her here?

James Feijo then took a call from Troy, and asked "Can you share with Marcia what she can try to start for her . . . mom?" Troy responded by recommending BioShark and 7 Herb Formula – which are two products that Defendants sell.

15. During the radio show, the Defendants provide the toll free number for consumers to call to order their products.

16. From the Defendants' website, consumers can access an online bulletin board. Using a screen name to identify themselves, individuals can post messages on the bulletin board. The messages include inquiries about products that can prevent, treat, or cure various medical conditions, including cancer. Other individuals can post replies to these inquiries. The bulletin board identifies most individuals' screen names as "Registered Users," but identifies seven



screen names as “Global Moderators.” Both Registered Users and Global Moderators post messages on the bulletin board.

17. The statements on the bulletin board include, but are not limited to, the following summary and excerpts. On May 24, 2010, one consumer posted a message to the bulletin board seeking the name of a product to fight melanoma. On May 25, 2010, a “Global Moderator” identified as “David” provided the following response:

In reference to your problem with cancer, we believe the Lord has provided the following products to help in healing:

**\*7 Herb Formula** 2 ounces in juice or water (minimum intake) 2

times daily

**\*Bio Shark** (for tumors only) 2-4 capsules 3 times daily with

meals

**\*Endo 24 or 1<sup>st</sup> Kings 17:6** 4-5 scoops in water (preferred) or soy

milk 2 times daily

**\*GDU Caps** 3-6 capsules 3 times daily; ½ hr. Before meals

Those products with an \* are considered to be essential.

Please call the radio show and share this with Jim and Trish so they

can ask you some questions and perhaps modify these

recommendations for you/ The radio program number is 1 866 222

2368 and is on the air 12:00 - 2:00 PM eastern time Monday

through Friday

Thank you

18. The statements on the bulletin board also include, but are not limited to, the following summary and excerpts. On May 14, 2010, a “Global Moderator” identified as “jh1” posted a link to a “Guide Book” on the bulletin board, which other users could access. The Guide Book’s full title is “the most simple guide to the most difficult diseases” and is subtitled “the doctors’ how-to quick reference guide.” The Guide Book’s introduction states that it contains “protocols we used successfully,” and that “[m]any have testified that these basic protocols are effective, when adhered to as part of an overall health plan.” The Guide Book includes a page titled “Cancer: All types of Cancer,” which lists recommended doses of 7 Herb Formula, BioShark, BioMixx, and GDU Caps, all of which are designated as “the most essential products” for cancer.

19. As of the date of this Complaint, Defendants have not sent the notice required by Part II.B of the Order to purchasers of the covered products. Defendants informed the FTC staff that they will not comply with this provision while their appeal of the Order is pending.

### **COUNT I**

20. Through the means described in Paragraphs 11 to 18, Defendants, in connection with the advertising, promotion, offering for sale, sale, sale, or distribution of BioShark, 7 Herb Formula, GDU, and BioMixx, have represented, directly or indirectly, expressly or by implication including through the use of endorsements, that such products prevent, treat, cure, or assist in the prevention, treatment, or cure of tumors or cancer.

21. Defendants have made the representations set forth in Paragraph 20 without possessing and relying upon competent and reliable scientific evidence that substantiates the representation, thereby violating Part II of the Order.

**COUNT II**

22. Defendants have failed to send, within forty-five days after the final and effective date of the Order, an exact copy of the notice attached to the Order as Attachment A to all consumers who purchased BioShark, 7 Herb Formula, GDU, and/or BioMixx on or after January 1, 2005 through April 2, 2010, thereby violating Part V.B of the Order.

**CONSUMER INJURY**

23. Consumers have suffered and will suffer substantial consumer injury as a result of Defendants' violations of the Commission Order. In addition, Defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

**CIVIL PENALTIES AND EQUITABLE RELIEF**

24. Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(c) of the Commission's Rules of Practice, 16 C.F.R. § 1.98(c), authorize this Court to award monetary civil penalties of not more than \$16,000 for each violation of the Commission's Order.

25. Sections 5(l) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(l) and 53(b), authorize this Court to issue a mandatory injunction and such other equitable and ancillary relief as it may deem appropriate in the enforcement of a Commission Order and the FTC Act, including rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten gains, to prevent and remedy any violations of any provision of any provision of law enforced by the Commission.

**PRAYER FOR RELIEF**

26. WHEREFORE, Plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(l) and 53(b), and pursuant to the Court's own equitable powers:

1. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, a preliminary injunction;
2. Enter a permanent injunction to prevent future violations of the FTC Act and the Commission's Order by Defendants;
3. Award Plaintiff monetary civil penalties from Defendants for each violation of the Commission's Order alleged in this Complaint;
4. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the Commission's Order, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten gains; and
5. Award Plaintiff the costs of bringing this action, as well as such other relief the Court may deem just and proper.

Respectfully submitted,

Of Counsel:

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