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

**In the Matter of**

**HEALTH RESEARCH LABORATORIES, LLC,  
a limited liability company,**

**WHOLE BODY SUPPLEMENTS, LLC,  
a limited liability company, and**

**KRAMER DUHON,  
individually and as an officer of HEALTH  
RESEARCH LABORATORIES, LLC and  
WHOLE BODY SUPPLEMENTS, LLC**

**DOCKET NO. 9397**

**RESPONDENTS' RESPONSE TO MOTION TO STRIKE UNAUTHORIZED REPLY**

On January 28, 2021, Complaint Counsel filed a Motion to Strike, requesting that the Court strike the Reply filed on January 27, 2020. In the interests of judicial economy and to avoid delay and for the reasons stated below, the Court should deny the Motion to Strike.

**Brief Response**

Before filing the Motion for Acceptance of Contested Stipulated Cease-and-Desist Order ("Motion"), Respondents' counsel provided Complaint Counsel with a copy of the draft Motion so that, if there were certain issues regarding the proposed cease-and-desist order that were important to the FTC, those issues could be addressed. Complaint Counsel raised a couple of concerns including that concerns the proposed stipulation (a)

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permits ongoing sales of the products; and (b) permits the advertising of virtually identical products. *See* Ex. A to the Motion. To address these issues, Respondents asked if there was any language that Complaint Counsel would propose to alleviate these concerns. *See* Ex. A to Motion. Complaint Counsel refused to provide any language. *See* Ex. A to the Motion. Despite this fact, Respondents revised the proposed order to (a) prohibit all future sales of the four supplements at issue; and (b) prohibit all advertising or marketing for not only the four products at issue, but also any substantially similar products. *See* Motion, p. 3.

In the Response, Complaint Counsel raised numerous arguments, some of which were never addressed in the extensive meet-and-confer session and emails prior to the filing of the Motion. *Compare* Ex. A to Motion to Response. For that reason, Respondents addressed the issues raised by Complaint Counsel in a reply. Some of the issues in the Reply are issues that are important for the Court to consider when considering Complaint Counsel's arguments against the Motion, including (a) the fact that the Commission refused the filing initially because it was filed with the "wrong decision maker" (i.e., the Commission and not the OALJ); (b) the clarification that the Motion seeks to have the Court "recommend" a cease-and-desist order to the Commission, as opposed to issuing the Order directly; and (c) the fact that Complaint Counsel has stated in a letter—which is not in Complaint Counsel's pleadings—that Complaint Counsel intends to prove a likelihood of reoccurrence of the alleged prohibited "act or practice." *See* Reply, p. 6. Striking the Reply will only cause delay and

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inefficiency because Respondents will be forced to address Complaint Counsel's issues through another motion. It is more efficient for the parties and the Court to consider these issues through a single Motion, Response, Reply, and Surreply rather than through multiple motions.

Finally, as Complaint Counsel acknowledges in the first sentence of the Response, the Motion is an "unusual request." *See* Response, p. 1. This is not a discovery fight where Respondents are simply re-iterating common legal or factual issues. The Motion is an attempt to permit the limited relief provided by the FTCA and end this case without the expense, hassle, and time associated with further unnecessary administrative proceedings. Respondents have done nothing wrong and, if they had the unlimited budget of the United States Government, they would love to fight every allegation to the bitter end. But, Respondents stopped marketing the supplements at issue long before this case was initiated. Complaint Counsel's effort to obtain a cease-and-desist order is a vindictive waste of time and government resources. For these reasons, Respondents respectfully request that the Court deny the Motion to Strike, but grant Complaint Counsel the right to file a Surreply.

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Dated: January 29, 2021

Respectfully submitted,

**REESE MARKETOS LLP**

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 29, 2021, I filed the foregoing document electronically using the FTC's E-Filing system, which will send notification to:

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