

United States of America
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580



Bureau of Consumer Protection

February 19, 2025

Via email: bondk@khlaw.com; butler@khlaw.com

J. Kathleen Bond
Samuel A. Butler
Keller and Heckman LLP
1001 G Street, NW
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Washington, DC 20001

Dear Ms. Bond and Mr. Butler:

I write to reply to your January 24, 2025 letter to Chairman Ferguson regarding *FTC v. Gravity Defyer Med. Tech. Co. and Alexander Elnekaveh*, Case No. 22-cv-1464 (D.D.C.), in which you ask the Commission to refrain from issuing a press release and take action under President Trump’s January 20, 2025 Executive Order, “Ending the Weaponization of the Federal Government.” You further request a meeting with Chairman Ferguson or his staff to discuss the case.

The American people have a right to petition their government. *See, e.g., McDonald v. City of Chicago*, 561 U.S. 742, 815-16 (2010) (Thomas, J., concurring in part). And President Trump’s recent Executive Order serves an important and necessary function, given the Biden administration’s repeated weaponization of the Federal government against the American people. However, these general considerations do not warrant revisiting your clients’ case. As you know, this case was handled by the FTC’s Bureau of Consumer Protection, which undertook a thorough investigation and provided ample time for you to present your clients’ position. When it became clear that the matter could not be resolved, the Commission voted unanimously and in a bipartisan manner to authorize the filing of the complaint. After the court largely denied your clients’ motion to dismiss, the parties engaged in further negotiations and your clients chose to sign a proposed Stipulated Order in October 2024 to resolve the litigation. Three months later, after the Commission voted unanimously to approve the Stipulated Order, you joined FTC staff attorneys in moving the court to approve the order, which it did the following day.

Neither the Executive Order nor the circumstances of this case provide a sound basis for your requests. By its terms, the Executive Order’s purpose is to “ensure accountability” for the Biden administration’s “weaponization of the Federal Government against the American people.” It is certainly true that the “American people . . . witnessed the previous administration engage in

a systematic campaign against its perceived political opponents,” including through the “weaponization of prosecutorial power to upend the democratic process.” However, the circumstances of this case fall outside the scope of President Trump’s Executive Order. As you know, this investigation was opened in 2019, before the Biden administration began. No facts show or suggest that your clients were subject to the kind of partisan mistreatment that falls within the scope of the Executive Order. As noted above, the Commission’s votes to authorize the filing of the complaint and subsequent settlement of this matter were both bipartisan and unanimous. Finally, the FTC’s investigation and litigation of this matter fall squarely within the “legitimate governmental objectives” referenced in the Executive Order. The complaint in this matter alleged that your clients engaged in deceptive advertising, including by misrepresenting the results of a clinical trial. It further alleged that Mr. Elnekaveh violated the terms of a Commission order, also concerning alleged deceptive advertising, that had been entered against him years earlier. Given these circumstances, I do not believe the Executive Order is apt here.

There is likewise no basis for departing from the Commission’s long-standing practice of issuing press releases announcing resolutions of its enforcement proceedings for public transparency and reflecting staff’s hard work. And, given the lengthy proceedings in this matter and your clients’ willingness to bring them to a voluntary resolution, there is no reason to afford yet another opportunity to present your clients’ case after voluntary settlement.

Sincerely,



Christopher Mufarrige
Director, Bureau of Consumer Protection

cc: Jon Miller Steiger
Director, East Central Region