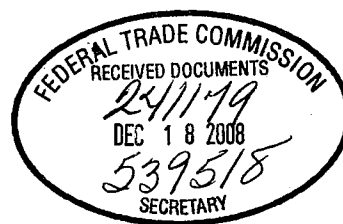


ORIGINAL



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

11 **In the Matter of**

12 **DANIEL CHAPTER ONE,**
13 **a corporation, and**

14 **JAMES FEIJO,**
15 **individually, and as an officer of**
16 **Daniel Chapter One**

) **Docket No.: 9329**

) **PUBLIC DOCUMENT**

17 **RESPONDENTS' FIRST REQUEST FOR ADMISSIONS**

18 Pursuant to FTC Rule of Practice 3.32 and the Court's scheduling order of October 28,
19 2008, Respondents Daniel Chapter One and James Feijo, individually and as an officer of Daniel
20 Chapter One, propound their first request for admissions on Complaint Counsel and request that
21 Counsel respond to them within 20 days by electronic mail and with paper copies to the address
22 shown above.
23

24 **INSTRUCTIONS AND DEFINITIONS**

- 25
26 A. "Respondent" or "Respondents" shall mean each Respondent in this proceeding as
27 listed in the Complaint in *In the Matter of Daniel Chapter One*, Federal Trade
28 Commission Docket No. 9329.

- 1 B. "You" or "your" shall mean Complaint Counsel, other FTC counsel, and any
2 investigators or other government agents and employees with knowledge of the
3 facts underlying the investigation and Complaint made against Respondents.
- 4 C. "Or" includes "and", and "and" includes "or".
- 5
- 6 D. "All" also means "any", and vice versa.
- 7 E. "Relating to" (or any of its forms) means relating to, reflecting, constituting,
8 representing, supporting, contradicting, referring, to, relevant to, containing
9 information about, stating, describing, analyzing, noting, embodying, containing,
10 mentioning, studying, recording, discussing or evaluating (whether in opposition
11 to or in supporting of your claims and positions in this proceeding).
- 12 F. If you object to any of the requests for admission herein, whether in whole or in
13 part, on the ground that the information sought therein is privileged or
14 confidential, please respond to any part of the request for admission concerned
15 as to which no privilege is claimed.

REQUESTS FOR ADMISSION

- 16 1. Admit or Deny: Respondent Daniel Chapter One is a religion under the 1st Amendment to
17 the U.S. Constitution.
- 18 2. Admit or Deny: Respondent Jim Fiejo is a minister of a religious organization.
- 19
- 20 3. Admit or Deny: Respondents' products at issue in the FTC's Complaint against
21 Respondents are dietary supplements.
- 22 4. Admit or Deny: The FTC has no regulation that specifically addresses commercial
23 speech about dietary supplements.
- 24 5. Admit or Deny: The FTC has no regulation that specifically addresses advertisements
25 about dietary supplements.
- 26
- 27 6. Admit or Deny: On or about September 13, 2002, FTC staff issued comments at the
28 request of the FDA In the Matter of Request for Comment on First Amendment Issues
before the FDA, Docket no. 02N-0209 (hereinafter "Comments").

1 7. Admit or Deny: Concerning the Comments referred to in Request for Admission #6, the
2 FTC Commission's vote was 5-0 authorizing the FTC staff to issue the Comments in
3 response to the FDA's request.

4 8. Admit or Deny: Within the Comments, the FTC staff issued the following statement:

5
6 The FTC's approach to advertising for products like foods, over-the-counter
7 ("OTC") drugs, and dietary supplements, while generally consistent with that
8 of the FDA for these products, is also understandably more flexible, allowing
9 a broader range of claims so long as they are accurate and not misleading.
10 The Commission's law enforcement approach seeks to ensure that products
11 and services are marketed in a manner that is truthful and not misleading, and
12 that consumers have adequate information to make well-informed purchasing
13 decisions.

14 9. Admit or Deny: Within the Comments, the FTC staff issued the following statement:

15 [T]he Commission has particularly rigorous substantiation requirements for
16 health and safety claims. The Commission recognizes, of course, that even
17 these rigorous standards require vigorous enforcement when false and
18 misleading advertising occurs. However, available evidence suggests that
19 the general benefits of an enforcement approach that encourages
20 dissemination of truthful information, while vigorously attacking misleading
21 claims when they occur, produces benefits for consumers.

22 10. Admit or Deny: Within the Comments, the FTC staff issued the following statement:

23 Striking the right balance depends on the nature of the claims and the risks that
24 result from deception. Applicable First Amendment law looks in part to the
25 availability of less restrictive alternatives, such as mandated disclosures, in
26 assessing the legality of outright bans on potentially misleading commercial
27 speech.

28 11. Admit or Deny: Within the Comments, the FTC staff issued the following statement:

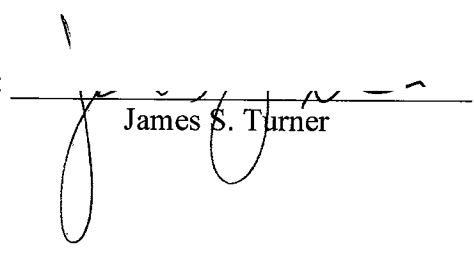
Empirical evidence suggests that if consumers receive more and better
information about nutrition and health, consumers are able to make better-
informed choices about the food products they purchase. This, in turn, creates
economic incentives for companies to develop healthier food products to
satisfy consumers. Consumers thus would benefit if the FDA expanded its use
of regulatory approaches that allow the dissemination of truthful and non-
misleading claims about the nutrient content and health benefits of foods.

- 1
- 2 12. Admit or Deny: The government does not have a substantial interest in preventing the
3 dissemination of truthful commercial information in order to prevent members of the
4 public from making bad decisions with the information.
- 5 13. Admit or Deny: The FTC has no regulation that sets forth the criteria for determining
6 what is a “misleading” claim.
- 7 14. Admit or Deny: The FTC has no regulation that sets forth criteria for determining what is
8 a “potentially misleading” claim.
- 9 15. Admit or Deny: the FTC has no regulation that sets forth the criteria for determining
10 what are representations “by implication,” as you use the quoted phrase in paragraphs 14
11 and 15 of your Complaint against Respondents.
- 12 16. Admit or Deny: Within the Comments, the FTC staff issued the following statement:
13
- 14 Advertising and labeling can be extremely effective tools to educate
15 consumers about diet-disease relationships, to increase their awareness of
16 diseases, to inform them of different treatment options, and to empower them
17 to manage better their own health. The ability to present information in
18 advertising and labeling can also provide a strong incentive to competitors to
develop new products and to improve existing products, giving consumers
more and better choices.
- 19 17. Admit or Deny: Within the Comments, the FTC staff issued the following statement:
20
- 21 [I]t appears that some of the benefits of information about the relative
22 nutritional and health benefits of different food products may have decreased
23 as a result of regulatory policies intended to limit health claims to the “best”
dietary choices. . .”
- 24 18. Admit or Deny: The FTC issued a policy statement titled “FTC Policy Statement
25 Regarding Advertising Substantiation” found at www.ftc.gov/bcp/guides/ad3subst.htm,
26 which states standards used by the FTC.
- 27 19. Admit or Deny: The FTC has no regulations that set forth the standards or criteria for
28 advertising substantiation.

- 1 20. Admit or Deny: The FTC issued a guide titled “Dietary Supplements: An Advertising
2 Guide for Industry” found at www.ftc.gov/bcp/edu/pubs/business/adv/bus09.shtm, which
3 states standards used by the FTC.
- 4 21. Admit or Deny: The FTC uses standards for the regulation of dietary supplements in
5 addition to those found in the guide identified in Request for Admission #20.
- 6 22. Admit or Deny: Some consumers do not benefit from conventional cancer treatments, as
7 you use the phrase “conventional cancer treatments” in Attachment A of your Complaint
8 against Respondents (hereinafter referred to as “conventional cancer treatments”).
- 9 23. Admit or Deny: Some consumers who suffer from cancer believe that conventional
10 cancer treatments are harmful.
- 11 24. Admit or Deny: Some consumers who suffer from cancer believe that natural remedies,
12 which include dietary supplements, will provide more health benefits in response to their
13 cancer than conventional cancer treatments provide.
- 14 25. Admit or Deny: Some consumers who have suffered from cancer have avoided
15 conventional cancer treatments as a matter of personal or religious choice.
- 16 26. Admit or Deny: Some consumers who have suffered from cancer prefer to use natural
17 remedies, which include dietary supplements, over conventional cancer treatments as a
18 matter of personal or religious choice.
- 19 27. Admit or Deny: The preference of some consumers who have suffered from cancer for
20 the use of natural remedies, which include dietary supplements, is based on information
21 about traditional use of those natural remedies.
- 22 28. Admit or Deny: Some consumers who have avoided conventional cancer treatments and
23 who have instead used natural remedies, which include dietary supplements, have
24 experienced cure or remission of their cancer.
- 25 29. Admit or Deny: Without information that comes from claims by supplement
26 manufacturers about the traditional use of natural remedies, including dietary
27 supplements, consumers would have less access to information about traditional use of
28 natural remedies.

1 Dated this 16th day of December, 2008

2
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4 SWANKIN & TURNER
Attorneys for Respondents

5
6
7 By:  James S. Turner

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8 **IN THE UNITED STATES OF AMERICA**
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11 **In the Matter of**) **Docket No.: 9329**
12 **DANIEL CHAPTER ONE,**)
13 **a corporation, and**) **CERTIFICATE OF SERVICE**
14 **JAMES FEIJO,**)
15 **individually, and as an officer of**)
16 **Daniel Chapter One**)

17 I certify that on December 16, 2008, I served by electronic mail and caused to be served
18 by Federal Express for delivery on December 17, 2008, Respondents' First Set of Interrogatories
19 to Complaint Counsel, Respondents' First Request for Production of Documentary Materials and
20 Tangible Things, and Respondents' First Request for Admissions on the following individuals:

21 Theodore Zang, Jr. Esq.
22 Federal Trade Commission – Northeast Region
23 One Bowling Green, Suite 318
24 New York, NY 10004


25 Carole A. Paynter, Esq.
26 Federal Trade Commission – Northeast Region
27 One Bowling Green, Suite 318
28 New York, NY 10004

1 David W. Dulabon, Esq.
2 Federal Trade Commission – Northeast Region
3 One Bowling Green, Suite 318
4 New York, NY 10004

5 I further certify that on December 16, 2008, I served by electronic mail a courtesy copy
6 of Respondents' First Request for Admissions on the Office of the Administrative Law Judges at
7 oalj@ftc.gov.

8 I further certify that on December 16, 2008, I served one copy by electronic mail at
9 secretary@ftc.gov, and caused to be served by Federal Express for delivery on December 17,
10 2008, the original and two copies of Respondents' First Request for Admissions on the Secretary
11 of the Federal Trade Commission at:

12 Office of the Secretary
13 Federal Trade Commission
14 600 Pennsylvania Avenue, NW, Room H-159
15 Washington, DC 20580

16 
17 Martin R. Yerick
18 Swankin & Turner
19 1400 16th Street, NW, Suite 101
20 Washington, DC 20036