

EXHIBIT A

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

In the Matter of)	
)	
DYNAMIC HEALTH OF FLORIDA, LLC,)	
CHHABRA GROUP, LLC,)	DOCKET NO. 9317
DBS LABORATORIES, LLC,)	
VINEET K. CHHABRA, a/k/a VINCENT K. CHHABRA, and)	
JONATHAN BARASH,)	
Respondents.)	

**COMPLAINT COUNSEL’S FIRST REQUEST TO RESPONDENTS FOR
PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS**

Pursuant to Rule 3.37(a) of the Federal Trade Commission’s Rules of Practice, Complaint Counsel hereby requests that Respondents Dynamic Health of Florida, LLC, Chhabra Group, LLC, and Vineet K. Chhabra produce the documentary materials and tangible things identified below for inspection and copying within 20 days at the Federal Trade Commission, 601 New Jersey Ave., N.W., Suite 3213, Washington, D.C. 20001, or at such time and place as may be agreed upon by all counsel.

I. SPECIFICATIONS¹

Demand is hereby made for the following documentary materials and tangible things:

1. **All documents referring or relating to** the structure and management of any company that has played a role in the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement product, including but not limited to Dynamic Health of Florida, LLC, Chhabra Group, LLC, Chhabra International Ltd., Kreating, LLC, Chhabra Internet Support Center, LLC, Chhabra Internet Fulfillment Services, LLC, Chhabra Management, LLC, Metability of Florida, LLC, CG Fulfillment, and USA Prescription, Inc. (This request **includes** but is not limited to **documents** showing articles of incorporation, by-laws, minutes, the date and place of company formation, company form, parent, subsidiary and affiliate companies, and filings with State or Federal corporate regulatory authorities; **documents** showing the names and titles of directors,

¹ **Note: Read and comply with the Definitions and Instructions that follow.**

officers, supervisors, and managers, and organizational charts; **documents** showing the ownership interests of all owners; **documents** describing the authority, duties, and responsibilities of officers, managers, directors, and supervisors; and any **documents** delegating authority to engage in any act on behalf of Vineet K. Chhabra or act as agent for Vineet K. Chhabra.)

2. **All documents and communications referring or relating to** the duties, responsibilities, and services performed or anticipated to be performed by Dynamic Health of Florida, LLC, Chhabra Group, LLC, DBS Laboratories, LLC, DBS Labs, LLC, Chhabra International Ltd., Dynamic Health International, Kreating, LLC, Chhabra Internet Support Center, LLC, Chhabra Internet Fulfillment Services, LLC, Chhabra Management, LLC, Metability of Florida, LLC, CG Fulfillment, USA Prescription, Inc., Hill Knowlton & Samcor, TransMedia Group, Nutrition Formulators, Highland Laboratories, Pharmachem Laboratories, Health Tek Laboratories, Executive Label, Inc., Vineet K. Chhabra, Dr. Alberto Guzman, Guy Regalado, Randi Swatt, Gil Herrera, Arent Fox, and Jonathan Barash with respect to the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement product.

3. Two complete packages, including the product contained therein, of each of the **challenged products**. (If any product has been sold under more than one label or reformulated, provide two complete packages, including the product contained therein and all packaging inserts, of each version of the product that has been marketed and sold).

4. All labels and **promotional materials** for the **challenged products**, whether in draft or final form.

5. **All documents and communications referring or relating to** draft or final labels and **promotional materials** for the **challenged products**. (This request **includes** but is not limited to contracts, **documents**, and **communications** evidencing the creation, modification, approval, execution, evaluation, dissemination, clearance, or placement of labels and **promotional materials**, and **documents referring or relating to** the contents of draft or final labels and **promotional materials**, **including** but not limited to any claims, messages, or **communication** in any draft or final labels and **promotional material(s)**.)

6. **All documents and communications referring or relating to** the efficacy of the **any dietary supplement relating to female sexual health or children's weight** or any ingredient therein (including but not limited to tests, reports, studies, scientific literature, written opinions, and any other **documents referring or relating to** the amount, type, or quality of testing or substantiation), **including** all **documents and communications** that are relied upon as substantiation for, or that tend to refute, the claims alleged in the **Complaint** (¶¶ 9, 13, and 15) regardless of whether you contest that those claims were made.

7. **All documents and communications** that refer or relate to any advice or counsel

provided by the law firm of **Arent Fox** regarding the formulation, manufacture, labeling, advertising, marketing, **promotion**, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement **relating to** female sexual health or children's body weight.

8. **All documents and communications that refer or relate to** the formulation, manufacture, labeling, advertising, marketing, promotion, offering for sale, sale, distribution, customer service, or fulfillment of any dietary supplement **relating to** female sexual health or children's body weight.

9. **All documents and communications referring or relating to** the marketing of each of the **challenged products**. (This request **includes** but is not limited to **market research**, marketing plans or strategies, and all other **document(s)** and **communications referring or relating to** copy tests, marketing or consumer surveys and reports, penetration tests, target audiences, recall tests, audience reaction tests, **communications** tests, consumer perception of any **promotional materials** for any of the **challenged products**.)

10. **All documents and communications referring or relating to** complaints or investigations of any of the **challenged products** or their labels or **promotional materials**. (This request **includes** but is not limited to **documents and communications** relating to lawsuits, demand letters, refund requests, warranty or guarantee claims, and complaints or inquiries by any local, state, or federal government legislature, agency or entity, or other **persons** (including but not limited to consumers, competitors, and entities such as the Better Business Bureau or the National Advertising Division).)

11. **All documents referring or relating to**, or constituting a **dissemination schedule** for advertisements relating to the **challenged products**.

12. All tax returns for **Respondents** for 2000 to present, including but not limited to all supporting **documents** and attachments, requests for extension for filing any tax return, and any statement(s) of the reasons for which any extension(s) were requested. (This request **includes** all returns and related information pertaining to the payment of payroll and unemployment taxes, social security taxes, medicare, and Federal, State and local and sales, business, gross receipts, licensing, property, and income taxes.)

13. From the date of the first sale of each of the **challenged products** to date, all **documents** that show gross and net sales figures and profit figures for each of the **challenged products**.

14. One copy of any plea, stipulation, statement, admission, and agreement signed by any **Respondent** in connection with any State or Federal civil or criminal law enforcement matter.

15. **All documents referring or relating to** transfer or sale of any of the

Respondent's interest in, or rights to market or sell, any dietary supplement.

16. **All documents** and **communications** consulted or used in preparing your responses to Complaint Counsel's **interrogatories**.

II. DEFINITIONS

1. **"All documents"** means each **document**, as defined below, which can be located, discovered or obtained by reasonable, diligent efforts, including without limitation all **documents** possessed by: (a) you or your counsel; or (b) any other **person** or entity from whom you can obtain such **documents** by request or which you have a legal right to bring within your possession by demand.

2. **"And"** as well as **"or"** shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any **Document Specification** in this First Set of Requests for Production of Documentary Materials and Tangible Things all information that otherwise might be construed to be outside the scope of the request.

3. **"Any"** shall be construed to **include** the word **"all,"** and the word **"all"** shall be construed to **include** the word **"any."**

4. **"Arent Fox"** means the law firm of Arent Fox Kintner Plotkin & Kahn, PLLC, its wholly or partially owned subsidiaries, parent companies, unincorporated divisions, joint ventures, partnerships, operation under assumed names, predecessors, affiliates, and all directors, officers, partners, employees, agents, attorneys, consultants, franchisees, independent distributors, and any other person or entity, working for or on behalf of the foregoing at any time, including but not limited to Brian P. Waldman and James A. Kaminski.

5. **"Challenged products"** means the products identified as Pedia Loss and Fabulously Feminine in the administrative **Complaint** issued by the Federal Trade Commission in the above-captioned matter, both individually and collectively.

6. **"Communication"** means any transmission or receipt of facts, information, opinions, or thought, whether conveyed in writing, orally, electronically, or by any other means, including written memorializations of oral **communication**.

7. **"Complaint"** means the administrative **Complaint** issued by the Federal Trade Commission, and any amendments thereto, in the above-captioned matter.

8. **"Dissemination schedule"** includes, but is not limited to, the following: (a) for radio, audio, television, and video **promotional materials**, the date, time of day, location and station name; (b) for product packaging, the names of distributors and retailers to whom the

packaging or other **promotional material** was transmitted, the date of transmittal, and the number of pieces transmitted; (c) for printed **promotional materials**, the name and date of the publication or place in which the **promotional material** appeared; and (d) for Internet materials, the date that the **promotional material** was first placed on the Internet, the date (if any) that it was removed from the Internet, and the number of "hits" that the advertisement registered.

9. "**Document**" means the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, taped, recorded, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, package insert, sticker, web page, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, data compilation, tests, reports, clinical studies, test reports, scientific literature, articles, expert opinions, handwritten notes, correspondence, communications, electronic mail, electronically stored data, computer (including handheld computer) material (including print-outs, cards, magnetic or electronic tapes, discs and such codes or instructions as will transform such computer materials into easily understandable form), and video and audio recordings.

10. "**Each**" and "**any**" include "**all**," so as to have the broadest meaning whenever necessary to bring within the scope of any Specification all information and/or **documents** that might otherwise be construed to be outside its scope.

11. "**Includes**" or "**including**" means "**including but not limited to**," so as to avoid excluding any information that might otherwise be construed to be within the scope of any Specification.

12. "**Interrogatories**" means any and all **Interrogatories** served on the Respondents in the above-captioned matter.

13. "**Market research**" means all information **referring or relating to** testing, measuring or assessing consumers' or individuals' interpretation of, understanding of or reaction to a draft, proposed, or final **promotional material**, proposed advertising text, copy or creative strategy or platform, product category, product, entity or information conveyed in an advertisement, including consumer perception tests, comprehension tests, recall tests, marketing or consumer surveys or reports, penetration tests, audience reaction tests, focus groups and media research.

14. "**Or**" includes "**and**," and "**and**" includes "**or**," so as to have the broadest meaning whenever necessary to bring within the scope of any Specification all information or **documents** that might otherwise be construed to be outside its scope.

15. , **“Person”** or **“Persons”** means all natural persons, corporations, partnerships or other business associations, and all other legal entities, including all members, officers, predecessors, assigns, divisions, affiliates and subsidiaries.

16. **“Promotional material”** means any written or oral statement, advertisement, illustration, or depiction that is designed to effect a sale or create interest in the purchasing of goods or services, whether the same appears in a press release, video news release, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, sticker, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, instructional or education materials, packaging, package insert, package label, film, slide, radio or television broadcast or transmission, Internet or World Wide Web site, streaming video, electronic mail, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, or publication or broadcast in any other medium.

17. **“Referring to”** or **“relating to”** means discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

18. **“Respondent(s)”** means Dynamic Health of Florida, LLC, Chhabra Group, LLC, and Vineet K. Chhabra, individually and collectively, including all of their operations under assumed names.

19. **“You”** or **“Your”** means the **Respondents** or **Respondents’**, both individually and collectively, unless otherwise noted.

20. The use of the singular includes the plural, and the plural includes the singular.

21. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

22. The spelling of a name shall be construed to include all similar variants thereof.

III. INSTRUCTIONS

1. Unless otherwise specified, the time period covered by a Document Specification shall not be limited and all **documents** responsive to the Specification, regardless of dates or time periods involved, should be provided.

2. A complete copy of each **document** should be submitted even if only a portion of the document is within the terms of the Specification. The document shall not be edited, cut, or expunged and shall **include** all covering letters and memoranda, transmittal slips, appendices, tables or other attachments.

3. All information submitted shall be clearly and precisely identified as to the Specification(s) or sub-Specification(s) to which it is responsive. Each page submitted should be marked with a unique "Bates" document tracking number.

4. **Documents** covered by these Specifications are those which are in your possession or under your actual or constructive custody or control, whether or not such **documents** were received from or disseminated to any other **person** or entity including attorneys, accountants, directors, officers and employees.

5. All information submitted shall be clearly and precisely identified as to the Respondent(s) who produced the information. You shall do so by: (a) marking each submitted item with a notation identifying the Respondent(s) who produced that item; or (b) providing a separate list of submitted items, in numeric "Bates" document tracking number order, that identifies the Respondent(s) who produced each item.

6. **Documents** that may be responsive to more than one Specification need not be submitted more than once; however, your response should indicate, for each **document** submitted, each Specification to which the **document** is responsive. If any **documents** responsive to a Specification have been previously supplied to the Commission, you may comply with the Specification by identifying the **document(s)** previously provided and the date of submission; identification shall be by Bates number if the **document(s)** were so numbered when submitted, or by author and subject matter if not so numbered.

7. If any of the documentary materials requested in these Specifications are available in machine-readable form (such as floppy or hard disks, drums, core storage, magnetic tapes or punch cards), state the form in which it is available and describe the type of computer or other machinery required to read the record(s) involved. If the information requested is stored in a computer or a file or record generated by a computer, indicate whether you have an existing program that will print out the record in readable form and state the name, title, business address and telephone number of each **person** who is familiar with the program.

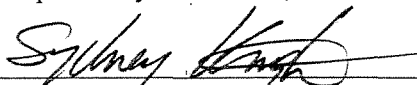
8. **Promotional materials** submitted in response to these Specifications shall be submitted in the following form(s) as follows: For **documents**, provide the original **promotional materials** if available, or, if not available, color copies thereof. For audio-only (or radio) materials, provide a tape cassette (or digitized recording, if in machine-readable form) and a script, as well as any audio out-takes. For video recordings, provide a DVD or VHS cassette and script or storyboard, as well as any video out-takes. For Internet or other online materials, provide a CD (if in machine-readable form) or a clear color printout of all screens displayed in the **promotional materials** and identify the site, forum, or address.

9. All objections to these Document Specifications, or to any individual Specification, must be raised in the initial response or are otherwise waived.

10. If any requested material is withheld based on a claim of privilege, submit together with such claim a schedule of the items withheld which states individually for each item withheld: (a) the type, title, specific subject matter, and date of the item; (b) the names, addresses, positions, and organizations of all authors and recipients of the item; and (c) the specific grounds for claiming that the item is privileged. If only part of a responsive **document** is privileged, all non-privileged portions of the **document** must be submitted.

11. This First Request to Respondents for Production of Documentary Materials and Tangible Things is continuing in character so as to require you to produce additional information promptly upon obtaining or discovering different, new or further information before the close of discovery. Further instructions pertinent to a particular Document Specification appear in parentheses within or following that Specification.

Respectfully submitted,



Janet M. Evans (202) 326-2125

Sydney M. Knight (202) 326-2162

Division of Advertising Practices

FEDERAL TRADE COMMISSION

600 Pennsylvania Avenue, N.W.

Mail drop NJ-3212

Washington, D.C. 20580

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CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of October, 2004 filed and served the attached **COMPLAINT COUNSEL'S FIRST REQUEST TO RESPONDENTS FOR PRODUCTION OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS** upon the following as set forth below:

- (1) one (1) electronic copy via email and one (1) copy via overnight delivery service to:

Max Kravitz, Esq.
Kravitz & Kravitz, LLC
145 East Rich Street
Columbus OH 43215
TEL: 614-464-2000
FAX: 614- 464-2002
mkravitz@kravitzlawnet.com



Sydney M. Knight