

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Jon Leibowitz, Chairman**
 Pamela Jones Harbour
 William E. Kovacic
 J. Thomas Rosch

_____)	
In the Matter of)	
DANIEL CHAPTER ONE,)	DOCKET NO. 9329
a corporation, and)	
)	
JAMES FEIJO,)	PUBLIC DOCUMENT
individually, and as an officer of)	
Daniel Chapter One.)	
)	
)	
_____)	

**DECLARATION OF JAMES FEIJO
IN SUPPORT OF APPLICATION FOR STAY
OF MODIFIED FINAL ORDER PENDING PETITION FOR REVIEW**

1. My name is James Feijo (hereinafter “Feijo”). Since October 30, 2002, I have served as Overseer of Daniel Chapter One (hereinafter “DCO”), a corporation sole under the laws of the State of Washington, with principal office at 1028 East Main Road, Portsmouth, Rhode Island 02871. As Overseer of DCO, I have been, and continue to be, trustee of all real estate and other property held by DCO under an express trust for the exclusive use and benefit of DCO. DCO and I are Respondents in the above-captioned matter.

2. This Declaration is submitted in support of Respondents’ Application for Stay of the Modified Final Order (hereinafter “the Order”) issued by the Federal Trade Commission (hereinafter “FTC”) on January 25, 2010, and served upon Respondents on January 29, 2010.

3. On September 16, 2008, the FTC issued a Complaint in the above-entitled matter charging that by their representations, both expressed and implied, concerning the

efficacy of BioShark, 7 Herb Formula, GDU and Bio Mixx (hereinafter “the four Challenged Products”) in the “treatment of cancer” or “tumor growth,” Respondents violated Sections 5(a) and 12 of the Federal Trade Commission Act. The Commission’s Order was issued pursuant to that Complaint about those four Challenged Products. As I understand it, the FTC “found” DCO’s “advertising claims for [the four Challenged] products to be deceptive because they were not substantiated by competent and reliable scientific evidence.” *See* Modified Final Order, Paragraph V, Attachment A, Letter to be Sent by First Class Mail. Importantly, however, Respondents market not just the four Challenged Products, but also 150 to 200 additional dietary supplements, foods, and other health-related products, services and programs, among which are BioMolecular nutritionals, Kalcifate Plus, Alimentz, Amino Acids, Biotropins, Body Care, CoEnzymes, Electrolytes, Enzymes, Ergo and Thermogenics, Essential Fats, Fiber, Herbs, Homeopathy, Hormonal, Immune Boosters, Minerals, Oils, Speciality, Sportsline, Vitamins, Water Kleen, and Weight Loss.

4. Principally through its website, e-mails, radio show, and printed materials, DCO conducts a world-wide apostolic and healing church ministry serving the physical, emotional and spiritual needs of people under the direct authority of Our Savior and Head of the Church, the Lord Jesus Christ.

5. My wife, Patricia Feijo, who serves as Secretary of DCO, and I believe that we have been provided by God with spiritual gifts in the area of healing and apostleship (*see* 1 Corinthians 12:1, 4-7, 9, and 11), and therefore, this has been a large part of our ministry since even before the formation of DCO. We have engaged in outreach to the poor and sick, taking the healing gospel of the Kingdom of God throughout the world, according to the

principles of the Holy Bible, as led by the Holy Spirit, and informed by study of God's natural world. *See* Romans 12. Additionally, we have been continuously engaged in what is known as an apostolic ministry aiding in the formation and support of local bodies of believers, primarily house churches, in the United States and in other countries. *See* 1 Corinthians 4:9-10. DCO ministers, educates and engages in commerce to accomplish its objectives, presenting the life-giving Gospel to nonbelievers, functioning as a local body of believers, assisting other local bodies of believers, and teaching the life-sustaining principles by which believers are to care for and preserve our bodies, as temples of the Holy Spirit, on earth. *See* 1 Corinthians 3:16-17, 6:19-20. As a husband and wife team (*see* Acts 18:1-3), we educate and minister to the public Biblical principles of wellness, and we make available a variety of dietary supplements designed to improve the spiritual and physical well-being of people regardless of their current spiritual condition, or religious affiliation.

6. Since 2005 our healing ministry has utilized several Internet websites (*e.g.*, www.danielchapterone.com, www.dc1pages.com, www.dc1store.com, www.7herbformula.com, and www.gdu2000.com) through which we educate the public and those affiliated with our ministry, and market and promote a wide variety of herbal and other dietary and nutritional supplements. One of the most important educational methods we use to share information involves the publication of the **personal testimonies** of individuals who have been helped by such products in their fight against cancer and other serious illnesses and infirmities. We believe from Scripture that personal testimonies are the most important evidence of the power of God with respect to a person's spiritual condition, and that the same

principle applies to a person's physical condition. *See, e.g.*, John 9:1-34; Acts 3:1-11. God tells us, "You are My witnesses, that I am God." Isaiah 43:12.

7. Offering the highest quality dietary supplements available, together with unique Biomolecular nutritional formulas, Respondents have relied upon God's revelation, God-endowed natural reason, empirical science rightly-understood, God-confirming individual testimonial evidence, and the 6,000-year recorded human history — beginning with God's provision of plants for food, as recorded in Genesis 1:29 — as the foundation for Respondents' health-beneficial product claims. God's Word teaches us that "He causeth the grass to grow for the cattle, and **herb for the service of man**: that he may bring forth food out of the earth." Psalm 104:14. As an example, one of the four Challenged Products, **7 Herb Formula** contains God-given herbs that have been used for thousands of years. Initially a 6-herb formula developed by friends of the DCO ministry, through reliance on divine revelation and human experience, I added a seventh herb, Eleuthero (Siberian ginseng), which was verified in this case for safety and improved effectiveness by a world-renown herbal expert, Jim Dews (J. Dews Deposition (Feb. 11, 2009), pp. 46, l. 7 - 47, l. 24).

8. Respondents believe that permanent truth is found in God's revelation (*see* John 8:31-32), and that falsity is often found in what passes for science in each generation. *See* 1 Timothy 6:20. Over the years, bleeding, purging, administration of toxic mercury, etc. have all passed as state-of-the-art science. Even today, studies conducted by expert panels prove faulty and inadequate protection against medical practices that, instead of healing the body, cause severe side effects, such as strokes and heart attacks. *See* J. Groopman, "Health Care: Who Knows 'Best'?", Vol. 57, No. 2 (Feb. 11, 2010). The Bible teaches that "there is a way

that seemeth right unto man, but the end thereof are the ways of death.” Proverbs 14:12. Thus, the Bible warns against adopting a system of knowledge based upon reason alone, commanding instead reliance on God’s revelation in the Holy Scriptures and testimony. *See* Matthew 16:1-17. Modern science is often atheistic at its core, ridiculing the God of the Bible and those of the family of God. *See, e.g.*, Richard Dawkins, The God Delusion, Mariner Books (2006).

9. The limitations of the modern “scientific method” and the value of personal testimonials are increasingly obvious, even to physicians. Bhaswati Bhattacharya, M.D., MPH, an Assistant Clinical Professor of Family Medicine at Weill Cornell Medical College in New York stated it this way in a letter to the editor of the Wall Street Journal:

While most of the **medical orthodoxy is blind** to the fact that its **gold standard of proof is largely ineffective for anything other than drugs**, the public has used its common sense and moved on, to their **solid data of personal experiences**. [Bhaswati Bhattacharya, M.D., MPH, “Shouldn’t Scientific Medicine Be More Open-Minded?” Wall Street Journal (Jan. 12, 2009).]

10. In recognition of the limitations of materialistic science to discover the true health benefit and efficacious qualities of herbs and foods, Respondents have relied upon God’s Holy Scriptures as the source of “all the treasures of wisdom and knowledge.” *See* Colossians 2:2-3. The very purpose of Respondents’ teaching and healing ministry is to empower people with wisdom and knowledge to choose affordable and sustainable health care plans and programs as an alternative to government-regulated and approved programs. The FTC would allow the marketing of dietary supplements only if such marketing meets the FTC’s “flexible,” but exclusive, requirement that **all** health-efficacy and health beneficial claims of **all** dietary

supplements, drugs, foods, and other health-related products **must be** substantiated by “scientific evidence” that the FTC deems, in its complete discretion, to be “competent and reliable.”

11. The income received by DCO from the marketing of health-related products provides almost all of the funds necessary for the operation of the DCO ministry, including the costs of DCO’s Monday-through-Friday radio outreach. Without this income, the DCO ministry could not function.

12. As I understand it, the FTC did not find that Respondent had made any “deceptive” representation with respect to any products other than the four Challenged Products. However, the FTC’s Order against Respondents is much broader. For example:

- Paragraph II of the FTC’s Order prohibits Respondents from making any cancer or tumor treatment representation in the “manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution” of **any** dietary supplement, food, drug, or other health-related product, service or program, and
- Paragraph III of the Order prohibits Respondents from making **any representation** “about the **efficacy**, performance, or **health-related benefits**” of “**any** dietary supplement, food, drug, or other health-related service or program unless Respondents prove to the satisfaction of the FTC that such representation “is true, non-misleading, and, at the time that it is made, Respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.” (Emphasis added.)

13. Compliance with Paragraph III of the Order would require Respondents to suspend reliance on God's revelation, God-endowed natural reason, and God-confirming individual testimonial evidence as the foundation for their health-efficacy and health-beneficial claims of their products, and would make it impossible for Respondents to continue their current ministry to offer people a choice between health care benefits and efficacies in a marketplace free from government-imposed health-benefit standards.

14. While Paragraph II of the Order would apply only to cancer-or-tumor treatment representations, and not to other health benefit claims, enforcement of Paragraph II would have the same impact as enforcement of Paragraph III because Paragraph II applies to all of Respondents' products, resulting in the complete shut-down of the DCO's current healing ministry.

15. DCO's Monday-through-Friday radio program regularly receives calls from persons who are battling cancer, or are concerned about tumors, or are worried about nutritional problems during or following chemotherapy, or who have other like concerns. DCO's radio program also regularly receives calls from persons who give testimony of how DCO's products or services or program has assisted them in the treatment of cancer, such as healing the destructive effects of radiation or chemotherapy. Paragraph II appears to prevent the taking of such calls because the mere taking of the call would imply that DCO was representing that its products, services, or program would treat or assist in the treatment of cancer or that such a call from a person helped by a DCO product would be an "endorsement" of that product. Screening out calls would be contrary to DCO's long-standing practice of

taking all callers in the order of their call, requiring a profound change in DCO's ministry outreach.

16. Even if physically possible, compliance with Paragraph II of the Order would require Respondents to take affirmative steps to demonstrate that DCO's healing outreach does not include ministry to persons with cancer or tumors, thereby threatening not only Respondents' economic survival, but their credibility and integrity as a healing ministry open to everyone without respect of persons, need, or rank. *See James 2:1*. Indeed, enforcement of Paragraph II of the Order would be comparable to the enforcement of the Pharisaical doctrine against Jesus healing people on the Sabbath Day, preventing Respondents from responding to a person's dire physical need to meet the FTC's legalistic standard. *See Matthew 12:9-14*.

17. Paragraph II of the Order, whether combined with Paragraph III or standing alone, would cause a shut-down of the current ministry of DCO, the products being an integral part of Respondents' overall ministry of bringing God's wisdom and healing power to the people, and the sale of such products being the dominant source of income for the entire DCO ministry.

18. While Paragraph IV of the Order would allow Respondents to make claims about the safety and efficacy of products if they were based on prior drug approvals of the FDA, Respondents could not morally, ethically, or religiously surrender their judgment to a federal bureaucracy that demonstrably has approved dangerous drugs which harm people, and demonstrably withheld approval from potentially helpful drugs which could help heal people. For example, the New York Times just reported that GlaxoSmithKline manipulated research findings for the FDA to minimize damaging reports that its drug Avandia actually increased

cardiovascular risk (being linked to 304 deaths in the third quarter of 2009). *See* G. Harris, “Research Ties Diabetes Drug to Heart Woes,” *N.Y. Times*, Feb. 19, 2010, p. A1.

19. Moreover, the FDA approval procedures are suitable only for patentable drugs where the company making them can recoup the millions of dollars necessary for completing the product testing. Products which are nutritional, and herbal, are more analogous to foods than to highly-toxic commodities like manufactured pharmaceuticals. DCO could never afford to have its herbal products tested according to government standards. If DCO were effectively forced to comply with FDA Investigational New Drug procedures, DCO would be unable to sell any products. Nor would Respondents be able to meet the kind of studies, tests, and analyses that would yield the “competent and reliable scientific evidence” required by the FTC to substantiate any representation of the health benefits of any of its 150-200 products. The FTC requirement, like the FDA one, would be cost-prohibitive. *See* Bhaswati Bhattacharya, M.D., MPH, Letter to the Editor, “Shouldn’t Scientific Medicine Be More Open-Minded?” *Wall Street Journal* (Jan. 12, 2009) (“Financial incentive is lacking for large clinical trials using ancient modalities that are not patentable nor profit-engendering like a new drug.”)

20. Paragraph V.A of the Order would unalterably, irretrievably and irremediably disparage Respondents’ reputations and integrity by coercing them to furnish the names, addresses, telephone numbers, e-mail addresses, and products purchased by the consumers of one or more of the four Challenged Products. This would breach such consumers’ confidence in Respondents to protect their privacy, including their reasonable expectation that such vital information (i) would not be provided by Respondents to any person or entity without their express permission, (ii) would not be used by any person or entity except for the limited

purpose of purchasing one or more of the four Challenged Products, and (iii) would not be shared in such a way as to put them in jeopardy of receiving unwanted mail, e-mail or telephone call at the risk of such intrusion impairing their health and well-being.

21. Additionally, Paragraph V.A of the Order would unalterably, irretrievably, and irremediably violate my religious convictions and professional conscience, in that such disclosure to a third party of vital and personal information would breach the confidence placed by such consumers in me, both individually and as overseer of DCO. It could very well result in communications (like those contained in the Attachment A letter) that would undermine the health and well-being of persons who are suffering from serious, even terminal, illnesses, causing such persons to be traumatized by communications that are adverse and negative about the healing properties not only of one or more of the four Challenged Products, but any other herbal product, without regard to whether such products would put their health at risk in the way intimated by the content of the Attachment A letter or other like communication.

22. Paragraph V.B of the Order would unalterably, irretrievably, and irremediably disparage Respondents' reputations and integrity, by coercing them to send a letter "to be printed on letterhead of DCO" that, together with the first paragraph of the body of the letter, would create the impression that Respondents are voluntarily writing the letter as part of a consent decree, whereas, in truth, the letter has not been consented to by Respondents, but has been entirely composed by the FTC, an "exact copy" of which is required by Paragraph V.B of the Order to be sent to all consumers who purchased one or more of the four Challenged Products.

23. Paragraph V.B of the Order would also unalterably, irretrievably, and irremediably damage Respondents' reputations and integrity because the letter would create the misimpression that Respondents agree with the FTC's "information" about herbal products and conventional cancer treatments, as stated in the letter's second paragraph.

24. Paragraph V.B of the Order would substantially burden Respondents' free exercise of religion by mandating that Respondents associate with viewpoints with which they disagree, and which Respondents find morally, ethically, religiously, and politically abhorrent. Yet, Paragraph V prohibits Respondents from making their contrary viewpoints known, thereby creating the risk that the ordinary reader of the letter would think that Respondents agree with the FTC's views, putting Respondents at risk of violating their duty to God under the Ninth Commandment: "Thou shall not bear false witness."

25. Paragraph V.B would unalterably, irretrievably, and irremediably violate my religious convictions and professional conscience in that the contents of the letter could jeopardize the health and well-being of persons who are suffering from serious, even terminal, illnesses, causing such persons to be traumatized by unspecified, undocumented, and unsubstantiated information that unnamed and unidentified herbal products may pose a serious threat to their health.

Pursuant to 28 U.S.C. Section 1746, I declare, under penalty of perjury, that the foregoing is true and correct.

James Feijo

Executed on _____