

1 WILLIAM BLUMENTHAL  
2 General Counsel

3 DAVID P. FRANKEL  
4 ROSEMARY ROSSO  
5 MAMIE KRESSES  
6 THEODORE H. HOPPOCK  
7 CHRISTINE J. LEE  
8 DAVID K. KOEHLER  
9 ALYSA S. BERNSTEIN  
10 JAMES A. TRILLING  
11 Federal Trade Commission  
12 600 Pennsylvania Ave., N.W., Rm, NJ-3212  
13 Washington, D.C. 20580  
14 Tel: (202) 326-2812, 2174, 2070, 3087, 2095, 3627, 3289, 3497  
15 Fax: (202) 326-3259

16 KENNETH H. ABBE (Local Counsel)  
17 California Bar # 172416  
18 Federal Trade Commission  
19 10877 Wilshire Boulevard, Suite 700  
20 Los Angeles, CA 90024  
21 Tel: (310) 824-4318  
22 Fax: (310) 824-4380

23 Attorneys for Plaintiff  
24 FEDERAL TRADE COMMISSION

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

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**FEDERAL TRADE COMMISSION,**

**Plaintiff,**

**v.**

**A. GLENN BRASWELL, et al.,**

**Defendants.**

Hon. Dickran Tevrizian  
CV 03-3700-DT (PJWx)

**[Proposed]  
STIPULATED FINAL  
ORDER FOR PERMANENT  
INJUNCTION AND  
SETTLEMENT OF CLAIMS  
FOR MONETARY RELIEF  
AS TO A. GLENN  
BRASWELL**

1 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) filed a  
2 Complaint and Second Corrected First Amended Complaint (“Complaint”) for  
3 permanent injunction and other relief against A. Glenn Braswell, JOL  
4 Management Co., G.B. Data Systems, Inc., Gero Vita International, Inc.,  
5 Therapeutics, Inc., Halsey Holdings LLC, Health Quest Publications, Inc., G.B.  
6 Data Systems, Inc. (Canada), Ron Tepper, Ronald M. Lawrence, M.D., Ph.D.,  
7 Hans Kugler, Ph.D., and Chase Revel, pursuant to Section 13(b) of the Federal  
8 Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). Defendant A. Glenn  
9 Braswell denies the allegations in the Complaint, except jurisdictional facts, and  
10 disputes the legal basis for the relief requested, but is willing to agree to the entry  
11 of the following Stipulated Final Order for Permanent Injunction and Settlement  
12 of Claims for Monetary Relief (“Order”), without adjudication of any issues of  
13 fact or law and without Defendant Braswell admitting liability for any of the  
14 matters alleged in the Complaint.

15 The Commission and Defendant Braswell have stipulated to the entry of the  
16 following Order in settlement of the Commission’s Complaint against Defendant  
17 Braswell. The Court, being advised in the premises, finds:

### 18 FINDINGS

- 19 1. This Court has jurisdiction over the subject matter of this case and  
20 jurisdiction over Defendant Braswell. Venue in the Central District  
21 of California is proper.
- 22 2. The Complaint states a claim upon which relief can be granted and  
23 the Answer states multiple legal defenses. The Commission has the  
24 authority to seek the relief it has requested.
- 25 3. The activities of Defendant Braswell are or were in or affecting  
26 commerce, as defined in 15 U.S.C. § 44.
- 27 4. The parties waive all rights to seek judicial review or otherwise  
28 challenge or contest the validity of this Order. Defendant Braswell

1 also waives any claims that he may have held under the Equal Access  
2 to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this  
3 action to the date of this Order.

4 5. Each party shall bear its own costs and attorneys' fees.

5 6. Entry of this Order is in the public interest.

6 7. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of  
7 this Order are binding upon Defendant Braswell, and his agents,  
8 servants, employees and all other persons or entities in active concert  
9 or participation with him, who receive actual notice of this Order by  
10 personal service or otherwise.

11 8. This Order resolves all claims that arose prior to the date of entry of  
12 this Order against Defendant Braswell with respect to any allegation  
13 that Defendant Braswell violated the Federal Trade Commission Act  
14 and the regulations promulgated thereunder, and all claims that arose  
15 prior to the date of entry of this Order against Defendant Braswell  
16 with respect to any allegation that Defendant Braswell violated the  
17 Final Judgment previously entered in the United States District Court  
18 for the Northern District of Georgia, Atlanta Division, Civil Action  
19 C81-558A, to the extent that such allegation is referred or initiated by  
20 the Commission.

21 9. Defendant Braswell's stipulation is for settlement purposes only; does  
22 not constitute an admission of facts, other than jurisdictional facts, or  
23 violations of law as alleged in the Complaint and in fact Defendant  
24 denies same; and may not be used against Defendant in any other  
25 proceeding, except in such proceedings as may be necessary to  
26 enforce the provisions of this Order.

27 10. This Order was drafted jointly by Plaintiff and Defendant Braswell  
28 and reflects the negotiated agreement among the parties.

1 11. The paragraphs of this Order shall be read as the necessary  
2 requirements for compliance and not as alternatives for compliance  
3 and no paragraph serves to modify another paragraph unless  
4 expressly so stated.

### 5 **DEFINITIONS**

6 For purposes of this Order, the following definitions shall apply:

- 7 1. Unless otherwise specified, Defendant shall mean A. Glenn Braswell  
8 (“Braswell”), individually and in his former capacity as a director or  
9 officer of JOL Management Co., G.B. Data Systems, Inc., Gero Vita  
10 International, Inc., Therapeutics, Inc., Health Quest Publications,  
11 Inc., and G.B. Data Systems, Inc. (Canada).
- 12 2. “Competent and reliable scientific evidence” shall mean tests,  
13 analyses, research, studies, or other evidence based on the expertise  
14 of professionals in the relevant area, that has been conducted and  
15 evaluated in an objective manner by persons qualified to do so, using  
16 procedures generally accepted in the relevant field to yield accurate  
17 and reliable results.
- 18 3. “Food” and “drug” shall mean “food” and “drug” as defined in  
19 Section 15 of the FTC Act, 15 U.S.C. § 55.
- 20 4. “Covered product or service” shall mean any food, drug, or dietary  
21 supplement, whether sold individually or as part of a program, or any  
22 health-related service.
- 23 5. “Commerce” shall mean “commerce” as defined in Section 4 of the  
24 Federal Trade Commission Act, 15 U.S.C. § 44.
- 25 6. “Endorsement” shall mean “endorsement” as defined in 16 C.F.R. §  
26 255.0(b).
- 27 7. “Clear(ly) and prominent(ly)” shall mean as follows:  
28 a. In an advertisement communicated through an electronic

1 medium (such as television, video, radio, and interactive media  
2 including the Internet and online services), the disclosure shall  
3 be presented in either the audio or video portions of the  
4 advertisement, except that the Warning disclosure required by  
5 Paragraph VI., below, shall be presented simultaneously in  
6 both the audio and video portions of the advertisement. The  
7 audio disclosure shall be delivered in a volume and cadence  
8 sufficient for an ordinary consumer to hear and comprehend it.  
9 The video disclosure shall be of a size and shade, and shall  
10 appear on the screen for a duration, sufficient for an ordinary  
11 consumer to read and comprehend it. In addition to the  
12 foregoing, in interactive media the disclosure shall also be  
13 unavoidable and shall be presented prior to the consumer  
14 incurring any financial obligation.

- 15 b. In a print advertisement, promotional material, or instructional  
16 manual, the disclosure shall be in a type size and location  
17 sufficiently noticeable for an ordinary consumer to read and  
18 comprehend it, in print that contrasts with the background in  
19 which it appears.

20 Nothing contrary to, inconsistent with, or in mitigation of the  
21 disclosure shall be used in any advertisement or on any label.

- 22 8. The term “direct response marketing” shall mean any commercial  
23 message, in any medium of electronic or print dissemination,  
24 including, but not limited to, television, radio, product packaging,  
25 labeling, print advertising, online marketing, telemarketing, and direct  
26 mail, in which consumers may place an order for a product through  
27 the mail or any means of electronic device such as a telephone  
28 number, e-mail, or online request. The term “direct response

1 marketing” shall not include such commercial messages for products  
2 sold exclusively through retail stores or medical offices with a  
3 physical location where customers can purchase such products only at  
4 such locations, and not through means of the mail or electronic means  
5 such as a telephone number, e-mail, or online.

6 **BAN AGAINST DEFENDANT A. GLENN BRASWELL**

7 **I.**

8 **IT IS HEREBY ORDERED** that Defendant Braswell, whether directly, or  
9 in concert with others, or through any business, entity, corporation, subsidiary,  
10 division or other device, is hereby permanently restrained and enjoined from  
11 participating or assisting others in the direct response marketing of any food,  
12 dietary supplement, or drug, for which a health benefit is claimed directly or by  
13 implication. *Provided, however,* this Part I ban does not include claims made in  
14 the advertising, promotion, manufacturing, labeling, offering for sale, sale, or  
15 distribution of any drug for which there is an approval by the Food and Drug  
16 Administration (“FDA”) and such claims are permitted by the FDA in labeling for  
17 such drug under any tentative final or final standard by the FDA. *Provided*  
18 *further, however,* this Part I ban does not prohibit Defendant from including in a  
19 publication that he distributes, advertisements placed by third parties or other  
20 entities in which Defendant has no direct or indirect ownership, interest, or control  
21 so long as Defendant’s remuneration for such advertisements is made by means of  
22 a flat fee for placement and is not tied in any respect to sales of the advertised  
23 product. For purposes of this Paragraph, “assisting others” means knowingly  
24 providing any of the following services to any person or entity: (a) performing  
25 customer service functions for any such person or entity, including, but not limited  
26 to, outbound or inbound telemarketing, upselling, cross-selling, handling customer  
27 complaints, credit card or debit account processing, refund processing, web design  
28 and marketing, continuity program development or implementation, or designing

1 or preparing or assisting in the preparation of product labeling or packaging; (b)  
2 formulating or providing, or arranging for the formulation or provision of, any  
3 sales script or any other advertising or marketing material for any such person or  
4 entity; (c) leasing, renting, selling, or servicing customer lists, except as permitted  
5 in this Order, or (d) performing advertising or marketing services or consulting  
6 services of any kind for any such person or entity.

## 7 **CONDUCT PROHIBITIONS AND REQUIRED DISCLOSURES**

### 8 **Representations Regarding Respiratory Products**

#### 9 **II.**

10 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
11 corporation, partnership, subsidiary, division, trade name, or other device, and his  
12 agents, representatives, employees, and all persons or entities in active concert or  
13 participation with him who receive actual notice of this Order, by personal service  
14 or otherwise, in connection with the manufacturing, labeling, advertising,  
15 promotion, offering for sale, sale, or distribution of Lung Support Formula, or any  
16 other respiratory product, are hereby permanently restrained and enjoined from  
17 making any representation, in any manner, expressly or by implication, including  
18 through the use of trade names or endorsements, that such product:

- 19 A. Cures or treats lung diseases or respiratory problems, including  
20 allergies, asthma, colds, influenza, bronchitis, sinus problems, chest  
21 congestion, emphysema, smoking damage, or shortness of breath;
- 22 B. Reverses existing lung damage in persons with emphysema or  
23 significantly improves their breathing;
- 24 C. Prevents breathing problems for persons who do not have existing  
25 respiratory problems; or
- 26 D. Is clinically proven to eliminate or cure allergies related to  
27 respiratory problems, asthma, colds, influenza, bronchitis, sinus  
28

1 problems, chest congestion, emphysema, smoking damage, or  
2 shortness of breath;

3 unless the representation is true, non-misleading, and, at the time it is made,  
4 Defendant possesses and relies upon competent and reliable scientific evidence that  
5 substantiates the representation.

### 6 **Representations Regarding Diabetes and Blood Sugar Products**

#### 7 **III.**

8 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
9 corporation, partnership, subsidiary, division, trade name, or other device, and his  
10 agents, representatives, employees, and all persons or entities in active concert or  
11 participation with him who receive actual notice of this Order, by personal service  
12 or otherwise, in connection with the manufacturing, labeling, advertising,  
13 promotion, offering for sale, sale, or distribution of AntiBetic Pancreas Tonic or  
14 any other diabetes or blood sugar product, are hereby permanently restrained and  
15 enjoined from making any representation, in any manner, expressly or by  
16 implication, including through the use of trade names or endorsements, that such  
17 product:

- 18 A. Can cure Type I or Type II diabetes;
- 19 B. Is an effective or superior alternative to insulin or other diabetes  
20 medications for the treatment of Type I or Type II diabetes;
- 21 C. Lowers blood sugar levels in persons with diabetes or regenerates or  
22 repairs the pancreatic beta cells that produce insulin; or
- 23 D. Is clinically proven to lower blood sugar levels in persons with  
24 diabetes or to regenerate or repair the pancreatic beta cells that  
25 produce insulin;

26 unless the representation is true, non-misleading, and, at the time it is made,  
27 Defendant possesses and relies upon competent and reliable scientific evidence that  
28 substantiates the representation.



1                                   **Representations Regarding Anti-Aging Products**

2   **IV.**

3                   **IT IS FURTHER ORDERED** that Defendant, directly or through any  
4 corporation, partnership, subsidiary, division, trade name, or other device, and his  
5 agents, representatives, employees, and all persons or entities in active concert or  
6 participation with him who receive actual notice of this Order, by personal service  
7 or otherwise, in connection with the manufacturing, labeling, advertising,  
8 promotion, offering for sale, sale, or distribution of Gero Vita G.H.3,  
9 Therapeutics GH3 Romanian Youth Formula, or any other anti-aging product, are  
10 hereby permanently restrained and enjoined from making any representation in any  
11 manner, expressly or by implication, including through the use of trade names or  
12 endorsements, that such product:

- 13           A.    Prevents or reverses age-related memory loss, dementia, or
- 14                    Alzheimer’s disease;
- 15           B.    Enables persons to live longer; or
- 16           C.    Is clinically proven to prevent or reverse age-related memory loss,
- 17                    dementia, or Alzheimer’s disease;

18 unless the representation is true, non-misleading, and, at the time it is made,  
19 Defendant possesses and relies upon competent and reliable scientific evidence that  
20 substantiates the representation.

21                                   **Representations Regarding Weight Loss Products**

22   **V.**

23                   **IT IS FURTHER ORDERED** that Defendant, directly or through any  
24 corporation, partnership, subsidiary, division, trade name, or other device, and his  
25 agents, representatives, employees, and all persons or entities in active concert or  
26 participation with him who receive actual notice of this Order, by personal service  
27 or otherwise, in connection with the manufacturing, labeling, advertising,  
28 promotion, offering for sale, sale, or distribution of ChitoPlex or any other weight

1 loss product, are hereby permanently restrained and enjoined from making any  
2 representation, in any manner, expressly or by implication, including through the  
3 use of trade names or endorsements, that any such product:

- 4 A. Enables consumers to lose weight, maintain weight, or prevent weight  
5 gain;
- 6 B. Enables consumers to reverse obesity; or
- 7 C. Is proven to cause weight loss;

8 unless the representation is true, non-misleading, and, at the time it is made,  
9 Defendant possesses and relies upon competent and reliable scientific evidence that  
10 substantiates the representation.

### 11 **Representations Regarding Sexual Enhancement Products**

#### 12 **VI.**

13 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
14 corporation, partnership, subsidiary, division, trade name, or other device, and his  
15 agents, representatives, employees, and all persons or entities in active concert or  
16 participation with him who receive actual notice of this Order, by personal service  
17 or otherwise, in connection with the manufacturing, labeling, advertising,  
18 promotion, offering for sale, sale, or distribution of Testex, or any other sexual  
19 enhancement product, are hereby permanently restrained and enjoined from  
20 making any representation, in any manner, expressly or by implication, including  
21 through the use of trade names or endorsements, that such product:

- 22 A. Is effective in treating impotence or erectile dysfunction; or
- 23 B. Has no harmful side effects;

24 unless the representation is true, non-misleading, and, at the time it is made,  
25 Defendant possesses and relies upon competent and reliable scientific evidence that  
26 substantiates the representation.

27 *Provided further that* in any advertisement, promotional material or product  
28 label for any male sexual enhancement product containing yohimbine, yohimbe

1 bark, or yohimbe bark extract, that contains any representation about the efficacy,  
2 benefits, performance, safety or side effects of such product, Defendant, his  
3 officers, agents, representatives, employees, and all persons or entities in active  
4 concert or participation with him who receives actual notice of this Order, by  
5 personal service or otherwise, shall make clearly and prominently, and in close  
6 proximity to such representation, the following disclosure:

7  
8       **WARNING:** This product can raise blood pressure and interfere with other  
9 drugs you may be taking. Talk to your doctor before taking this product.

10

11 On a product label, the disclosure shall be in a type size and location sufficiently  
12 noticeable for an ordinary consumer to read and comprehend it and in print that  
13 contrasts with the background against which it appears. *Provided*, if a disclosure  
14 on a bottle label or package label is made in a location other than the principal  
15 display panel, the bottle label or package label shall: (i) include the statement “**See**  
16 **important warning on [insert disclosure location]**” in a type size and location on  
17 the principal display panel sufficiently noticeable for an ordinary consumer to read  
18 and comprehend it and in print that contrasts with the background against which it  
19 appears; and (ii) the disclosure shall be placed on the bottle label and, if applicable,  
20 the package label, within a border that is a color or shade that contrasts with the  
21 background against which it appears. *Provided further*, that, in a multi-page insert,  
22 the disclosure shall appear on the cover page or first page. Nothing contrary to,  
23 inconsistent with, or in mitigation of the disclosure shall be used in any  
24 advertisement or on any label.

25

### **Representations Regarding Covered Products and Services**

26

#### **VII.**

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**IT IS FURTHER ORDERED** that Defendant, directly or through any  
corporation, partnership, subsidiary, division, trade name, or other device, and his

1 agents, servants, employees, and all persons or entities in active concert or  
2 participation with him who receive actual notice of this Order, by personal service  
3 or otherwise, in connection with the manufacturing, labeling, advertising,  
4 promotion, offering for sale, sale, or distribution of any covered product or service  
5 are hereby permanently restrained and enjoined from misrepresenting that any  
6 product or treatment has been tested by scientists, researchers, or other medical  
7 professionals and found to be effective.

#### 8 **VIII.**

9 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
10 corporation, partnership, subsidiary, division, trade name, or other device, and his  
11 agents, servants, employees and all persons or entities in active concert or  
12 participation with him who receive actual notice of this Order, by personal service  
13 or otherwise, in connection with the manufacturing, labeling, advertising,  
14 promotion, offering for sale, sale, or distribution of any covered product or service  
15 are hereby permanently restrained and enjoined from making any representation, in  
16 any manner, expressly or by implication, including through the use of trade names  
17 or endorsements, about the absolute or comparative health benefits, efficacy,  
18 safety, or side effects of such product or service unless the claim is true, non-  
19 misleading, and, at the time it is made, Defendant possesses and relies upon  
20 competent and reliable scientific evidence that substantiates the representation.

#### 21 **Representations Regarding Tests or Studies**

#### 22 **IX.**

23 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
24 corporation, partnership, subsidiary, division, trade name, or other device, and his  
25 agents, servants, employees and all persons or entities in active concert or  
26 participation with them who receive actual notice of this Order, by personal service  
27 or otherwise, in connection with the manufacturing, labeling, advertising,  
28 promotion, offering for sale, sale, or distribution of any covered product or service,

1 are hereby permanently restrained and enjoined from misrepresenting, in any  
2 manner, expressly or by implication, the existence, contents, validity, results,  
3 conclusions, or interpretations of any test or study.

#### 4 **Advertising Formats**

##### 5 **X.**

6 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
7 corporation, partnership, subsidiary, division, trade name, or other device, and his  
8 agents, servants, employees and all persons or entities in active concert or  
9 participation with him who receive actual notice of this Order, by personal service  
10 or otherwise, in connection with the manufacturing, labeling, advertising,  
11 promotion, offering for sale, sale, or distribution of any covered product or service,  
12 are hereby permanently restrained and enjoined from misrepresenting, in any  
13 manner, expressly or by implication, that:

- 14 A. The product or service has been independently reviewed or evaluated;  
15 or  
16 B. Any advertisement for the product or service is not a paid  
17 advertisement.

#### 18 **Use of Endorsements**

##### 19 **XI.**

20 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
21 corporation, partnership, subsidiary, division, trade name, or other device, and his  
22 agents, servants, employees and all persons or entities in active concert or  
23 participation with him who receive actual notice of this Order, by personal service  
24 or otherwise, in connection with the manufacturing, labeling, advertising,  
25 promotion, offering for sale, sale, or distribution of any covered product or service,  
26 are hereby permanently restrained and enjoined from representing, in any manner,  
27 expressly or by implication, that such product or service has been endorsed by any  
28

1 person, organization or group that is an expert with respect to the endorsement  
2 message unless:

- 3 A. The endorser is an existing person, organization, or group whose  
4 qualifications give it the expertise that the endorser is represented as  
5 having with respect to the endorsement;
- 6 B. The endorsement is substantiated by an objective and valid evaluation  
7 or test using procedures generally accepted by experts in the relevant  
8 science or profession to yield accurate and reliable results; and
- 9 C. The endorser has a reasonable basis for the endorsement.

10 For purposes of a criminal contempt proceeding, it shall be a defense hereunder  
11 that Defendant neither knew nor had reason to know of the inadequacy of the  
12 substantiation claimed by the endorser for the representation.

## 13 XII.

14 **IT IS FURTHER ORDERED** that Defendant, directly or through any  
15 corporation, partnership, subsidiary, division, trade name, or other device, and his  
16 agents, servants, employees and all persons or entities in active concert or  
17 participation with him who receive actual notice of this Order, by personal service  
18 or otherwise, in connection with the manufacturing, labeling, advertising,  
19 promotion, offering for sale, sale, or distribution of any covered product or service,  
20 are hereby permanently restrained and enjoined from:

- 21 A. Misrepresenting that any endorser of the product or service is not  
22 affiliated with or is independent from Defendant; and
- 23 B. Failing to disclose, clearly and prominently, any material connection,  
24 where one exists, between Defendant and any endorser of the product  
25 or service. For purposes of this Paragraph, a “material connection”  
26 shall mean any relationship that may materially affect the weight or  
27 credibility of the endorsement, including, but not limited to: where the  
28 endorser has any direct or indirect ownership interest in any business

1 Defendant owns or controls or its subsidiaries or affiliates, or receives  
2 a royalty or percentage of sales of the endorsed product; or the  
3 endorser is an employee, agent, representative, officer, director, or  
4 shareholder of any business Defendant owns or controls or its  
5 subsidiaries or affiliates.

6 **FDA APPROVED CLAIMS**

7 **XIII.**

8 **IT IS FURTHER ORDERED** that:

- 9 A. Nothing in this Order shall prohibit Defendant from making any  
10 representation for any drug that is permitted in labeling for such drug  
11 under any tentative final or final standard promulgated by the Food  
12 and Drug Administration, or under any new drug application approved  
13 by the Food and Drug Administration; and  
14 B. Except as provided for in Paragraph I of this Order, nothing in this  
15 Order shall prohibit Defendant from making any representation for any  
16 product that is specifically permitted in labeling for such product by  
17 regulations promulgated under the laws of the United States America.

18 **MONETARY JUDGMENT AND CONSUMER REDRESS**

19 **Judgment**

20 **XIV.**

21 **IT IS FURTHER ORDERED** that:

- 22 A. Judgment for equitable monetary relief is hereby entered against  
23 Defendant Braswell in the amount of Thirty Million Dollars  
24 (\$30,000,000). *Provided, however,* that this amount shall not be  
25 binding in proceedings by the Commission against any non-settling  
26 Defendant. *Provided further,* that this judgment shall be suspended  
27 and, subject to the provisions of Paragraph XV, shall be deemed to be  
28 fully satisfied if Defendant timely and completely fulfills the payment

1 and assignment of promissory note obligations set forth in  
2 Subparagraph XIV.B.

3 B. Defendant Braswell shall pay to the Commission the sum of Four  
4 Million Five Hundred Thousand Dollars (\$4,500,000) as follows:

- 5 1. Defendant Braswell has placed the sum of One Million Dollars  
6 (\$1,000,000) into a non-interest bearing trust account at the law  
7 firm of Defendant's counsel, The Lustigman Firm, P.C., which  
8 shall be held by Defendant's counsel in such trust account and  
9 transferred within five (5) business days after entry of this  
10 Order, by electronic funds transfer into an account to be  
11 designated by the Commission in accord with directions  
12 provided by the Commission; and
- 13 2. Defendant Braswell shall obtain from Perpetual Health, LLC an  
14 assignment to the Commission of all rights to a promissory note  
15 with LongLife Maxx dated February 28, 2005 in the amount of  
16 Three Million Five Hundred Thousand Dollars (\$3,500,000.00).  
17 The assignment of such note to the Commission shall be without  
18 recourse. The promissory note and the assignment, along with  
19 any other documents necessary to perfect such assignment, shall  
20 be delivered to the Commission within fifteen (15) business days  
21 after entry of this Order. Defendant Braswell warrants and  
22 represents that all requirements under said note or applicable  
23 state law, including, but not limited to, notifications and filings,  
24 necessary to assign or transfer said note shall be completed at the  
25 time of delivery of said assignment to the Commission.

26 C. All funds paid pursuant to this Final Judgment shall be deposited into a  
27 fund administered by the Commission or its agent to be used for  
28 equitable relief, including but not limited to consumer redress and any



1 attendant expenses for the administration of any redress fund. In the  
2 event that direct redress to consumers is wholly or partially  
3 impracticable or funds remain after redress is completed, the  
4 Commission may apply any remaining funds for such other equitable  
5 relief (including consumer information remedies) as it determines to be  
6 reasonably related to the Defendant's practices alleged in the  
7 Complaint. Any funds not used for such equitable relief shall be  
8 deposited in the United States Treasury as disgorgement. Defendant  
9 shall have no right to challenge the Commission's choice of remedies  
10 under this Paragraph or the manner of distribution chosen by the  
11 Commission.

12 D. All money paid pursuant to this Final Judgment is irrevocably paid to  
13 the Commission for purposes of settlement between the Commission  
14 and Defendant, and Defendant relinquishes all right, title, and interest  
15 to assets held by the Commission in connection with this case.

16 E. No portion of the payment as herein provided shall be deemed payment  
17 of any fine, penalty, forfeiture, or punitive assessment.

18 F. In the event of any default by Defendant of any obligation imposed on  
19 Defendant under this Paragraph, including but not limited to the failure  
20 to timely and completely fulfill the payment obligations set forth in  
21 Subparagraph B:

- 22 1. The suspension of the judgment amount set forth in  
23 Subparagraph A shall be vacated as to Defendant, and the full  
24 amount of that judgment shall immediately become due, plus  
25 interest from the date of entry of this Final Judgment pursuant to  
26 28 U.S.C. § 1961, less any payments already made; and
- 27 2. The Commission shall be entitled to immediately exercise any  
28 and all rights and remedies against the Defendant and his

1 property, to collect the full amount of the judgment amount set  
2 forth in Subparagraph A and interest thereon, less any payments  
3 already made.

4 G. Defendant agrees that, if he fails to timely and completely fulfill the  
5 payment and assignment of the promissory note obligation set forth in  
6 this Final Judgment, the facts as alleged in the Complaint filed in this  
7 matter shall be taken as true in any subsequent litigation filed by the  
8 Commission to enforce its rights pursuant to this Final Judgment,  
9 including but not limited to, a nondischargeability complaint in any  
10 bankruptcy case.

11 H. In accordance with 31 U.S.C. § 7701, Defendant is hereby required,  
12 unless he has done so already, to furnish to the Commission his  
13 taxpayer identifying numbers and/or social security numbers, which  
14 may be used for purposes of collecting and reporting on any delinquent  
15 amount arising out of Defendant's relationship with the government.

#### 16 **Right to Reopen**

#### 17 **XV.**

18 **IT IS FURTHER ORDERED** that:

19 A. The Commission's agreement to this Order is expressly premised upon  
20 Defendant's financial condition as represented by the information  
21 Defendant provided to the Commission regarding his financial  
22 condition, to wit:

- 23 1. the sworn Financial Statement of A. Glenn Braswell, dated  
24 December 2, 2005.

25 These financial statements and supporting documents contain material  
26 information upon which the Commission relied in negotiating and  
27 agreeing to the terms of this Order. These financial statements and  
28 supporting documents contain confidential personal financial

1 information. Such statements and supporting documents are subject to  
2 the protective order entitled, Joint Stipulated Protective Order Between  
3 Plaintiff Federal Trade Commission and Defendant Almon Glenn  
4 Braswell Concerning Confidential Settlement and Judgment Related  
5 Materials, entered in this matter, *FTC v. Braswell, et al.*, No. CV 03-  
6 3700-DT (PJWx), on December 1, 2005, *provided, however, that*  
7 nothing in the protective order shall be deemed to preclude the  
8 Commission's use of such financial statements or supporting  
9 documents, or the use of such statements or documents in any  
10 investigations or proceedings that the Commission or the United States  
11 may initiate resulting from failure to comply with the payment and  
12 assignment provisions of this Final Judgment or in any proceeding  
13 initiated pursuant to Subparagraph XV.B. of this Order.

14 B. If, upon motion by the Commission, the Court finds that such financial  
15 statement of Defendant contains any material misrepresentation or  
16 omission, the suspended judgment entered pursuant to Paragraph XIV.  
17 A. of this Final Judgment, less any payments already made, shall  
18 become immediately due and payable by such Defendant, and interest  
19 computed at the rate prescribed under 28 U.S.C. § 1961, as amended,  
20 shall immediately begin to accrue on the unpaid balance; *provided,*  
21 *however, that* in all other respects this Final Judgment shall remain in  
22 full force and effect unless otherwise ordered by the Court; and,  
23 *provided further that* proceedings instituted under this provision  
24 would be in addition to, and not in lieu of, any other civil or criminal  
25 remedies as may be provided by law, including but not limited to  
26 contempt proceedings, or any other proceedings that the Commission  
27 or the United States may initiate to enforce this Final Judgment. For  
28 purposes of this Paragraph, and any subsequent proceedings to enforce

1 payment, including but not limited to a non-dischargeability complaint  
2 filed in a bankruptcy proceeding, Defendant agrees not to contest any  
3 of the allegations in the Commission's Complaint.

4 **COOPERATION WITH COMMISSION**

5 **XVI.**

6 IT IS FURTHER ORDERED that Defendant shall, in connection with this  
7 action or any subsequent investigations related to or associated with the  
8 transactions or occurrences that are the subject of the Commission's Complaint,  
9 cooperate reasonably and in good faith with the Commission and appear at such  
10 places and times as the Commission shall reasonably request, after written notice,  
11 for interviews, conferences, pretrial discovery, review of documents, and for such  
12 other matters as may be reasonably requested by the Commission, *provided that*,  
13 Defendant shall not be precluded from lawfully asserting his Fifth Amendment  
14 privilege against self-incrimination.

15 **LIST OF CONSUMERS**

16 **XVII.**

17 Defendant Braswell, whether directly or through any corporation,  
18 partnership, subsidiary, division, trade name, or other device, and his agents,  
19 representatives, employees, and all persons or entities in active concert or  
20 participation with him who receive actual notice of this Order, by personal service  
21 or otherwise, are permanently restrained and enjoined from advertising or  
22 marketing any food, drug, dietary supplement, or other health-related product or  
23 service to any person whose name, address, telephone number, credit card number,  
24 bank account number, e-mail address, or other identifying information was obtained  
25 from any mailing list or customer database held by or on behalf of any former  
26 corporate defendant in this action or any entity that entered into and is subject to the  
27 Final Stipulated Order For Permanent Injunction and Settlement of Claims for  
28 Monetary Relief Re: Certain Corporate Defendants, entered by this Court on March

1 30, 2005, or from:

- 2 A. Directly or indirectly selling, renting, leasing, transferring or disclosing  
3 any such mailing list or customer database to any person or entity  
4 engaged in the marketing, or selling of any food, drug, dietary  
5 supplement, or other health-related product or service, or  
6 B. Using such mailing list or customer database to distribute any  
7 publication that otherwise does not comply with Part I of this Order.

8 *Provided, however,* that Defendant may disclose such identifying information to any  
9 law enforcement agency, or as required by any law, regulation, or court order.

10 **COMPLIANCE REQUIREMENTS**

11 **Employees' Compliance with Order**

12 **XVIII.**

13 **IT IS FURTHER ORDERED** that Defendant Braswell, directly or through  
14 any corporation, partnership, subsidiary, division, trade name, or other device, shall:

- 15 A. Take reasonable steps sufficient to monitor and ensure that all  
16 employees and agents engaged in sales, marketing, advertising,  
17 promotion, or other customer service or policy functions comply with  
18 Paragraphs II through XII of this Order. Such steps shall include  
19 adequate monitoring of all advertisements, promotions, sales  
20 presentations, and other oral and written communication with  
21 customers regarding such products or services. Defendant Braswell, at  
22 a minimum, shall:
- 23 1. Conduct periodic monitoring of representations concerning any  
24 product or services made by persons engaged in sales or other  
25 customer service functions, including any representations made  
26 orally or through electronic communications;
  - 27 2. Conduct periodic monitoring of representations made in  
28 advertising for the product or services;

- 1 3. Maintain a procedure for receiving, maintaining, and responding  
2 to consumer complaints; and
- 3 4. Maintain a procedure for taking action against any employee or  
4 agent who engages in any conduct prohibited by Paragraphs II  
5 through XII of this Order, including, but not limited to, warning  
6 each such employee or agent upon the first instance of non-  
7 compliance and termination, as specified below in Subparagraph  
8 B of this Paragraph.

9 B. Terminate the employment of any employee or agent who engages in  
10 any conduct prohibited by Paragraphs II through XII of this Order once  
11 Defendant Braswell knows or should know that such person is or has  
12 been engaged in such conduct after having been warned of a previous  
13 instance of non-compliance.

### 14 **Compliance Reporting**

#### 15 **XIX.**

16 **IT IS FURTHER ORDERED** that, in order that compliance with the  
17 provisions of this Order may be monitored:

18 A. For a period of five (5) years from the date of entry of this Order,  
19 Defendant shall notify the Commission of the following:

- 20 1. Any changes in residence(s), mailing address(es), and telephone  
21 number(s) of the Defendant, within ten (10) days of the date of  
22 such change;
- 23 2. Any changes in Defendant's employment status (including self-  
24 employment), and any change in the ownership of the Defendant  
25 in any business entity within ten (10) days of such change. Such  
26 notice shall include the name and address of each business that  
27 the Defendant is affiliated with, employed by, creates or forms,  
28 or performs services for; a statement of the nature of the

1 business; and a statement of the Defendant's duties and  
2 responsibilities in connection with the business or employment;  
3 and

4 3. Any changes in the Defendant's name; and

5 B. Defendant shall notify the Commission of any proposed change in any  
6 business entity that Defendant Braswell directly or indirectly controls,  
7 or has an ownership interest in, that may affect compliance obligations  
8 arising under this Order, including but not limited to a dissolution,  
9 assignment, sale, merger, or other action that would result in the  
10 emergence of a successor corporation; the creation or dissolution of a  
11 subsidiary, parent, or affiliate that engages in any acts or practices  
12 subject to this Order; the filing of a bankruptcy petition; or a change in  
13 the corporate name or address, at least thirty (30) days prior to such  
14 change, *provided that*, with respect to any proposed change in the  
15 corporation about which Defendant learns less than thirty (30) days  
16 prior to the date such action is to take place, the Defendant shall notify  
17 the Commission as soon as is practicable after obtaining such  
18 knowledge.

19 C. Sixty (60) days after the date of entry of this Order, Defendant Braswell  
20 shall provide a written report to the Commission, sworn to under  
21 penalty of perjury, setting forth in detail the manner and form in which  
22 he has complied and is complying with this Order. This report shall  
23 include, but not be limited to:

24 1. The then-current residence addresses, mailing addresses, and  
25 telephone numbers of the Defendant;

26 2. The then-current employment and business addresses and  
27 telephone numbers of the Defendant, a description of the  
28 business activities of each such employer or business, and the

1 title and responsibilities of the Defendant, for each such  
2 employer or business;

- 3 3. The full name, address, telephone number, and state of  
4 incorporation of each corporation for which the Defendant is an  
5 officer or director or in which he holds more than five (5)  
6 percent of the shares of the corporation;
- 7 4. A copy of each acknowledgment of receipt of this Order  
8 obtained by Defendant pursuant to Paragraph XXII; and
- 9 5. Any other changes required to be reported under subparagraph A  
10 of this Paragraph.

11 For purposes of this Paragraph, "employment" includes the  
12 performance of services as an employee, consultant, or independent  
13 contractor; and "employers" include any individual or entity for whom  
14 Defendant Braswell performs services as an employee, consultant, or  
15 independent contractor.

- 16 D. For purposes of this Order, Defendant shall, unless otherwise directed  
17 by the Commission's authorized representatives, mail all written  
18 notifications to the Commission to:

19 Associate Director for Enforcement  
20 Federal Trade Commission  
21 600 Pennsylvania Avenue, N.W., Rm. NJ-2122  
Washington, D.C. 20580  
Re: **FTC v. Braswell et al.**, No. CV 03-3700-DT (PJWx)

- 22 E. For purposes of the compliance reporting required by this Paragraph,  
23 the Commission is authorized to communicate in writing directly with  
24 Defendant, with a copy to Defendant's counsel of record herein, or  
25 such substitute counsel as Defendant may advise Plaintiff. Defendant  
26 shall be given the opportunity to have counsel present for any oral  
27 communications.



1 **Compliance Monitoring**

2 **XX.**

3 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and  
4 investigating compliance with any provision of this Order,

5 A. Within ten (10) days, or such longer period as may be reasonable but  
6 not to exceed thirty (30) days, of receipt of written notice from a  
7 representative of the Commission, Defendant Braswell shall submit  
8 additional written reports, sworn to under penalty of perjury; produce  
9 documents for inspection and copying; appear for deposition, *provided*  
10 *that*, Defendant shall not be precluded from lawfully asserting his Fifth  
11 Amendment privilege against self-incrimination; and/or provide entry  
12 during normal business hours to any business location in Defendant's  
13 possession or direct or indirect control to inspect the business  
14 operation;

15 B. In addition, the Commission is authorized to monitor compliance with  
16 this Order by all other lawful means, including but not limited to the  
17 following:

- 18 1. obtaining discovery from any person, without further leave of  
19 court, using the procedures prescribed by Fed. R. Civ. P. 30, 31,  
20 33, 34, 36, and 45;
- 21 2. posing as consumers or suppliers to Defendant Braswell,  
22 employees of Defendant Braswell, or any other entity managed  
23 or controlled in whole or in part by Defendant Braswell, without  
24 the necessity of identification or prior notice; and

25 C. Defendant Braswell shall permit representatives of the Commission to  
26 interview any employer, consultant, independent contractor,  
27 representative, agent, or employee who has agreed to such an  
28 interview, relating in any way to any conduct subject to this Order.

1 The person interviewed may have counsel present.

2 *Provided, however,* that nothing in this Order shall limit the Commission's  
3 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15  
4 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony,  
5 or information relevant to unfair or deceptive acts or practices in or affecting  
6 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

7 **RECORD KEEPING PROVISIONS**

8 **XXI.**

9 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the  
10 date of entry of this Order, Defendant Braswell and his agents, employees, officers,  
11 corporations, successors, and assigns, and those persons in active concert or  
12 participation with him who receive actual notice of this Order by personal service or  
13 otherwise, are hereby restrained and enjoined from failing to continue to create and  
14 retain the following records regarding covered products or services:

- 15 A. Accounting records that reflect the cost of any covered products or  
16 services sold, revenues generated, and disbursement of such revenues;
- 17 B. Personnel records accurately reflecting: the name, address, and  
18 telephone number of each person employed in any capacity by such  
19 business, including as an independent contractor; that person's job title  
20 or position; the date upon which the person commenced work; and the  
21 date and reason for the person's termination, if applicable;
- 22 C. Customer files containing the names, addresses, telephone numbers,  
23 dollar amounts paid, quantity of items or services purchased, and  
24 description of items or services purchased, to the extent such  
25 information is obtained in the ordinary course of business;
- 26 D. Complaints and refund requests (whether received directly, indirectly,  
27 or through any third party) and all records showing any responses to  
28 those complaints or requests;

- 1 E. Copies of all advertisements, promotional materials, sales scripts,  
2 training materials, or other marketing materials utilized in the  
3 advertising, marketing, promotion, offering for sale, distribution or sale  
4 of any covered product or service;
- 5 F. All materials that were relied upon in making any representations  
6 contained in the materials identified in Subparagraph E above,  
7 including all documents evidencing or referring to the accuracy of any  
8 claim therein or to the efficacy of any covered product or service,  
9 including, but not limited to, all tests, reports, studies, demonstrations,  
10 as well as all evidence in Defendant's possession that confirms,  
11 contradicts, qualifies, or calls into question the accuracy of such claims  
12 regarding the efficacy of such covered product or service;
- 13 G. Records accurately reflecting the name, address, and telephone number  
14 of each manufacturer or laboratory engaged in the development or  
15 creation of any testing obtained for the purpose of advertising,  
16 marketing, promoting, offering for sale, distributing, or selling any  
17 covered product or service; and
- 18 H. All records and documents necessary to demonstrate full compliance  
19 with each provision of this Order, including but not limited to, copies  
20 of acknowledgments of receipt of this Order and all reports submitted  
21 to the FTC pursuant to this Order.

## 22 **DISTRIBUTION OF ORDER**

### 23 **XXII.**

24 **IT IS FURTHER ORDERED** that Defendant Braswell for a period of five  
25 (5) years shall deliver copies of the Order as directed below:

- 26 A. **Defendant as Control Person:** For any business engaged in the  
27 advertising, promotion, marketing, offering for sale, or sale of any  
28 covered product or service, that Defendant Braswell controls, directly

1 or indirectly, or in which he has a majority ownership interest, the  
2 Defendant must deliver a copy of this Order to all principals, officers,  
3 directors, and managers of that business. For current principals,  
4 officers, directors, and managers, delivery shall be within five (5) days  
5 of service of this Order upon Defendant. For new principals, officers,  
6 directors, and managers, delivery shall occur prior to them assuming  
7 their position or responsibilities.

8 **B. Defendant as Employee or Non-Control Person:** For any business  
9 engaged in the advertising, promotion, marketing, offering for sale, or  
10 sale of any covered product or service where Defendant Braswell is not  
11 a controlling person of a business but otherwise engages in conduct  
12 related to the subject matter of this Order, the Defendant must deliver a  
13 copy of this Order to all principals and managers of such business  
14 before engaging in such conduct.

15 **C.** Defendant shall make a good faith effort to secure a signed and dated  
16 statement acknowledging receipt of the Order, within thirty (30) days  
17 of delivery, from all persons receiving a copy of the Order pursuant to  
18 this Part.

19 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

20 **XXIV.**

21 **IT IS FURTHER ORDERED** that Defendant, within five (5) business days  
22 of receipt of this Order as entered by the Court, must execute and submit to the  
23 Commission a sworn statement acknowledging receipt of this Order.

**COURT'S RETENTION OF JURISDICTION**

**XXV.**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**SO STIPULATED:**

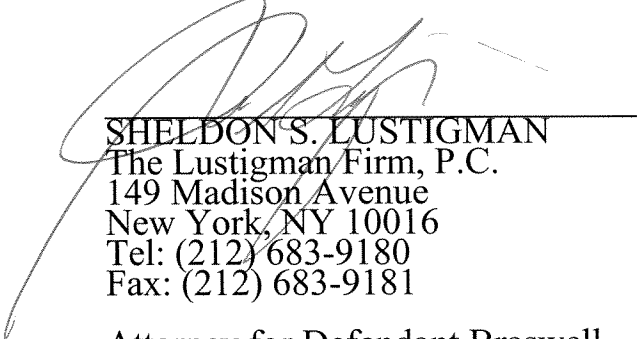


DAVID P. FRANKEL  
ROSEMARY ROSSO  
MAMIE KRESSES  
THEODORE H. HOPPOCK  
CHRISTINE J. LEE  
DAVID K. KOEHLER  
ALYSA S. BERNSTEIN  
JAMES A. TRILLING  
  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Rm. NJ-3212  
Washington, D.C. 20580  
Tel: (202) 326-2812  
Fax: (202) 326-3259

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION



A. GLENN BRASWELL



SHELDON S. LUSTIGMAN

The Lustigman Firm, P.C.  
149 Madison Avenue  
New York, NY 10016  
Tel: (212) 683-9180  
Fax: (212) 683-9181

Attorney for Defendant Braswell

**SO ORDERED**

DATED: \_\_\_\_\_

HON. DICKRAN TEVRIZIAN  
UNITED STATES DISTRICT JUDGE