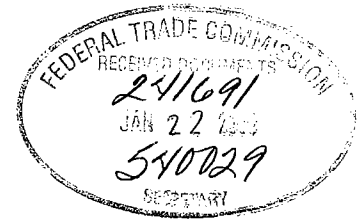


UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

ORIGINAL



In the Matter of
GEMTRONICS, INC.,
a corporation, and
WILLIAM H. "BILL" ISELY,
individually and as the principal
of Gemtronics, Inc.

DOCKET No. 9330

Public Document

**COMPLAINT COUNSEL'S MOTION AND MEMORANDUM TO COMPEL ANSWERS
TO INTERROGATORIES, PRODUCTION OF DOCUMENTS, AND DEPOSITION OF
RESPONDENT ISELY**

Pursuant to the Federal Trade Commission's Rules of Practice, 16 C.F.R. 3.22 and 3.38, Complaint Counsel respectfully moves for an order compelling Respondents Gemtronics, Inc. and William H. Isely to each provide to Complaint Counsel the information sought in Complaint Counsel's Interrogatories and Production of Documents (copies of which are attached as Appendix A). Complaint Counsel also seeks an Order compelling Respondent Isely to appear and be deposed (A copy of Complaint Counsel's Notice of Deposition is attached hereto as Appendix B). The grounds for this motion are set forth below.

I. BACKGROUND

A. Complaint Counsel's Interrogatories and Requests for Production of Documents

On September 16, 2008, the Commission issued its complaint in this matter charging Respondents Gemtronics, Inc. and William H. Isely with making deceptive and false claims that an herbal product, RAAX11, effectively prevents, treats, and cures cancer, and that the product is scientifically proven to work. On October 28, 2008, an initial prehearing scheduling

conference was held in this matter. After hearing from Complaint Counsel and Counsel for Respondents, the parties were strongly encouraged to pursue settlement. However, after counsel for both parties pursued an amicable resolution of this matter, such discussions did not prove fruitful.

On December 16, 2008, Complaint Counsel served Interrogatories and Requests for Production of Documents on Respondent Gemtronics, Inc. and Respondent Isely. Responses to discovery were due from Respondents on or before January 6, 2009. On January 6, 2009, Respondents requested a ten-day extension of time in which to provide discovery responses which was agreed to by Complaint Counsel. Respondents promised to provide their discovery responses by January 16, 2009.

On Friday, January 16, 2009, after no discovery responses were received, Complaint Counsel telephoned Counsel for Respondents who assured Complaint Counsel that the responses would be sent out that day by overnight courier. On Tuesday, January 20, 2009, Complaint Counsel finally received by overnight courier a package of 89 pages of documents. While these materials provided in this package contained some of the documents sought in Complaint Counsel's production of documents request, the submission was incomplete and insufficient. For example, no requested information was provided regarding sales data, consumer purchases, and substantiation for product claims. Further, no response was provided to Complaint Counsel's document production request to Respondent Gemtronics, Inc. Moreover, Respondents failed to provide any responses to the interrogatories propounded on either Respondent Gemtronics, Inc. or Respondent Isely.

When Complaint Counsel contacted Respondents by telephone on January 20, 2009, to discuss the deficient responses, Respondents informed Complaint Counsel that what we received

was all that we would be getting.

B. Complaint Counsel's Deposition of Respondent Isely

Respondent Isely is the principal of the corporate Respondent Gemtronics, Inc. He is the sole repository of relevant information about the company and the practices alleged in the Commission's complaint. Beginning on December 16, 2008, Complaint Counsel contacted Respondents to schedule the deposition of Respondent Isely, but Respondents were evasive and would not agree to set a date for his deposition. After repeated attempts to schedule the deposition, on January 8, 2009, Complaint Counsel sent a Notice of Deposition to Respondent Isely to take place on January 15, 2009. Complaint Counsel was ready and prepared to take the Respondent Isely's deposition, but after Counsel for Respondents was unable to confirm his client's availability, the deposition was rescheduled to January 21, 2009. (See Letter from Respondents' Counsel dated January 13, 2009 (Appendix C)). On January 20, 2009, Counsel for Respondents called Complaint Counsel to state that he was unavailable to attend Respondent Isely's deposition the following day, but would be available on January 27, 2009. Given Counsel for Respondent's track record, Complaint Counsel is not confident that this deposition will go forward absent an order from the Court.

II. ARGUMENT

Under Commission Rule 3.38, Complaint Counsel seeks an order compelling discovery. In addition to compelling answers to interrogatories and the deposition of Respondent Isely, Complaint Counsel also seeks an order compelling Respondents to respond fully and to comply as requested with Complaint Counsel's Requests for Production of Documents.

Complaint Counsel's Interrogatories and Requests for Production of Documents are relevant, reasonable, and proper, as is our request to depose Respondent Isely. Respondents

have filed no objections to any of Complaint Counsel's discovery requests or otherwise articulated any basis their refusal to provide Complaint Counsel with lawful discovery. Indeed, until the close of discovery approached, Respondents continually asserted that Complaint Counsel would receive responses to all of its discovery requests and further, that they would make Respondent Isely available for deposition.

Complaint Counsel served its discovery requests well in advance of the discovery cut-off and believed it was in fact negotiating in good faith with Respondents, when it is now apparent that Respondents expressly misrepresented their intentions to comply with discovery and acted in bad faith. Accordingly, Complaint Counsel's Motion to Compel is appropriate and warranted at this juncture.

III. RELIEF SOUGHT

Complaint Counsel seeks an Order requiring each Respondent to fully and precisely answer Complaint Counsel's Interrogatories and respond to Complaint Counsel's Requests for Production of Documents within five days of the entry of the Court's Order. In addition, we ask the Court to compel the deposition of Respondent Isely to be held on January 27, 2009.

Under Commission Rule 3.38 (b), if a party refuses to comply with a discovery order, the Court may: "Rule that for the purposes of the proceeding the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the party;" or, alternatively: "Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer, or agent, or the documents or other evidence." Accordingly, if Respondents continue to refuse to respond to these discovery orders, Respondents should be precluded from introducing any such evidence later in this action.

IV. CONCLUSION

For the reasons set forth above, Complaint Counsel respectfully requests that the Administrative Law Judge issue the attached two proposed orders: 1) compelling the Respondents to each provide full and precise responses to Complaint Counsel's Interrogatories and Requests for Production of Documents; and 2) ordering the deposition of Respondent Isely on January 27, 2009.

Dated: January 21, 2009

Respectfully submitted,



Barbara E. Bolton
Attorney for Complaint Counsel
Federal Trade Commission
225 Peachtree Street, Suite 1500
Atlanta, GA 30303
404-656-1362 (direct line)
404-656-1379 (facsimile)
bbolton@ftc.gov (email)

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of
GEMTRONICS, INC.,
a corporation, and
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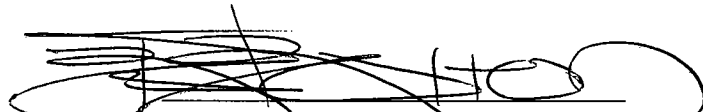
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STATEMENT OF COMPLAINT COUNSEL

Pursuant to Additional Provision No. 5 of the Court's Scheduling Order of October 28, 2008, I hereby represent, as counsel for the moving party, that I have conferred with Matthew Van Horn, Counsel for Respondents Gemtronics, Inc. and William H. Isely, in an effort in good faith to resolve by agreement the issues raised by the accompanying Complaint Counsel's Motion and Memorandum to Compel Answers to Interrogatories, Production of Documents, and Deposition of Respondent Isely and that I have been unable to reach such an agreement. Specifically, Complaint Counsel and Respondents' Counsel have conferred by telephone, letter, and email. Our most recent contact was a telephone conversation on January 20, 2009.

Dated: January 21, 2009

Respectfully submitted,



Barbara E. Bolton
Attorney for Complaint Counsel
Federal Trade Commission
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Atlanta, GA 30303
404-656-1362 (direct line)
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DOCKET No. 9330

Public Document

[Proposed] ORDER GRANTING MOTION TO COMPEL DISCOVERY RESPONSES

On January 21, 2009, Complaint Counsel filed a motion to compel Respondents Gemtronics, Inc. and William H. Isely, to each provide full and precise responses to Complaint Counsel's Interrogatories and Complaint Counsel's Request for Production of Documents.

IT IS HEREBY ORDERED that the motion to compel is GRANTED. Respondents shall produce such information within 5 days from the date of this Order.

ORDERED:

D. Michael Chappell
Administrative Law Judge

Date: _____

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of
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a corporation, and
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DOCKET No. 9330

Public Document

[Proposed] ORDER GRANTING MOTION TO COMPEL
DEPOSITION OF RESPONDENT ISELY

On January 21, 2009, Complaint Counsel filed a motion to compel the deposition of Respondent William H. Isely.

IT IS HEREBY ORDERED that the motion to compel is GRANTED. Respondents shall produce Respondent Isely to be deposed on January 27, 2009.

ORDERED:

D. Michael Chappell
Administrative Law Judge

Date: _____

APPENDIX A

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

**GEMTRONICS, INC.,
a corporation, and**

**WILLIAM H. "BILL" ISELY,
individually and as the principal
of Gemtronics, Inc.**

DOCKET No. 9330

Public Document

**COMPLAINT COUNSEL'S FIRST SET OF INTERROGATORIES TO
RESPONDENT WILLIAM H. ISELY**

Pursuant to RULE OF PRACTICE 3.35, Complaint Counsel requests that Respondent William H. Isely respond to these Interrogatories within 30 days and furnish the requested information to Complaint Counsel at the Federal Trade Commission, 225 Peachtree Street, N.E., Suite 1500, Atlanta, GA 30303, or at such time and place as may be agreed upon by all counsel.

DEFINITIONS

- 1) "Communication(s)" includes, but is not limited to, any and all conversations, meetings, discussions and any other occasion for verbal exchange, whether in person, by telephone, or electronically, as well as all letters, memoranda, telegrams, cables, and other writings or documents.
- 2) "Describe" or "disclose" mean to offer a comprehensive, complete, accurate and detailed description, explanation or listing of the matter into which the Interrogatory inquires.
- 3) "Document" means the complete original and any non-identical copy (whether different from the original because of notation 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 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 material, and video and audio records.

- 4) "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.
- 5) "Identify" or "identification" means:
 - a) when referring to a natural person, state the full name, present business address and telephone number, or if a present business affiliation or business address is not known, by the last known business and home address and business and home telephone numbers;
 - b) when referring to any other entity, such as a business or organization, state the legal names as well as any other names under which the entity has done business, address, telephone number and contact person, if applicable for that entity; and
 - c) when referring to a document or communication, state the full name(s) of the author(s) or preparer(s), the full name of the recipient(s), addressee(s), and/or person(s) designated to receive copies, the title or subject line of the document or communication, a brief description of the subject matter of the document or communication, the date it was prepared, its present location, and its present custodian.
- 6) "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.
- 7) "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.
- 8) "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.
- 9) "Promotional material" shall mean 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, stickers, 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, streaming video, electronic mail, web page, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, or publication or broadcast in any other medium.

- 10) "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.
- 11) "Respondent" means the Individual Respondent, William H. Isely.
- 12) "You" or "your" means the Individual Respondent, William H. Isely.
- 13) The use of the singular includes the plural, and the plural includes the singular.
- 14) The use of a verb in any tense shall be construed as the use of the verb in all other tenses.
- 15) The spelling of a name shall be construed to include all similar variants thereof.

INSTRUCTIONS

- 1) Unless otherwise specified, the time period covered by an Interrogatory shall not be limited and all information responsive to the Interrogatory, regardless of dates or time periods involved, shall be provided.
- 2) Each Interrogatory should be set forth in full preceding the answer to it and should be answered separately and fully in writing, under oath.
- 3) All answers shall be served within 30 days after service of these Interrogatories.
- 4) Information covered by these Interrogatories is that which is in your knowledge or possession, or under your actual or constructive custody or control, whether or not such information is located in the files of, or possessed by your individual officers, directors or employees, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers or employees.
- 5) All information submitted in response to these Interrogatories shall be clearly and precisely identified as to the Respondent(s) who produced the information.
- 6) When an Interrogatory requests an answer or portion of an answer that has already been supplied in response to another Interrogatory, the answer or portion of the answer need not be supplied a second time. It is sufficient to specify the responses that contain the answer, and supply any additional information necessary to answer the Interrogatory.
- 7) All objections to these Interrogatories, or to any individual Interrogatory, must be raised in the initial response or are otherwise waived.
- 8) If you object to any Interrogatory or a part of any Interrogatory, state the Interrogatory or part to which you object, state the exact nature of the objection, and describe in detail the facts upon which you base your objection. If any Interrogatory cannot be answered in full, it shall be

answered to the fullest extent possible and reasons for the inability to answer fully shall be provided. If you object to any Interrogatory on the grounds of relevance or overbreadth, you shall provide all responsive information that is concededly relevant to the parties' claims or defenses or the requested relief. For each Interrogatory that cannot be answered in full, you shall describe the efforts made to locate information needed for such answer.

9) If any documents or communications are identified in response to an Interrogatory on grounds 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 or communication is privileged, all non-privileged portions of the item must be identified.

10) These Interrogatories are 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 Interrogatory appear in parentheses within or following that Interrogatory.

INTERROGATORIES

1. Identify and describe in detail the current and former duties, responsibilities, and work performed by you and others, either under your direction, supervision or otherwise, relating to advertising, promoting, offered for sale, sale, and distributing the product RAAX11, including but not limited to, providing an explanation of your day-to-day responsibilities and activities with respect thereto.
2. Identify and describe in detail the current and former duties, responsibilities, and work performed by you and others, either under your direction, supervision or otherwise, relating to the operations of the corporate respondent, Gemtronics, Inc., including but not limited to, providing an explanation of your day-to-day responsibilities and activities with respect thereto. Include a detailed description of your participation in the formation and operation of the corporate respondent, Gemtronics, Inc.
3. Identify and describe in detail the process by which, from whom, and the dates that you have obtained the product RAAX11 and any promotional literature for the product, including, but not limited to, identifying the amounts of product you obtained and the amount you paid for the product on each date.
4. Identify each person consulted by you, or upon whose advice, opinion, or expertise you relied relating to advertising, promoting, offered for sale, sale, and distributing the product RAAX11, provide the substance of such advice, opinion, or expertise furnished to you and any compensation paid for such services.

5. For each year from 2004 to the present, disclose the total amount of sales in terms of units and dollars that you have achieved for the sales of RAAX11 and identify the source producing the sale, including, but not limited to, the specific Internet website, newspaper advertisement, promotional mailing, etc. For each year, provide a total amount of sales, as well as, a break down amount of sales from each source.
6. Identify and describe in detail any other payments you have received (other than the sales listed in response to Interrogatory No. 5), directly or indirectly, in connection with the advertising, marketing, promotion, sale and/or distribution of the product RAAX11 for each year from 2004 to the present. (This request includes the total dollar amount and source for each payments.)
7. Identify and describe in detail the nature of your business relationship, and when and how you began doing business with Takesun do Brasil and/or George Otto, aka Georg Otto Kather, including, but no limited to, identifying all communications and any contracts or agreements, oral or written, any payments or other compensation, and the purchase or other provision of supplies, computer or other equipment, between you and Takesun do Brasil and/or George Otto. Also identify and describe in detail and any advertising or promotional material containing your name and Takesun do Brasil and/or George Otto.
8. Identify and describe in detail the nature of your business relationship, and when and how you began doing business with Takesun USA, including, but no limited to, identifying all communications and any contracts or agreements, oral or written, any payments or other compensation between you and Takesun USA, and any advertising or promotional material containing your name and Takesun USA.
9. Describe in detail any communications and any contracts or agreements, oral or written, that you have had with any companies or individuals related to advertising, promoting, offering for sale, sale and/or distribution of RAAX11.
10. Disclose the total amount of dollars that you have spent to advertise, market, or otherwise promote the product RAAX11 for each year from 2004 to the present, broken down by each medium used (*i.e.*, print, Internet, radio, or other means). (This request includes, but is not limited to, all expenditures attributable to the creation, development, evaluation, approval, modification, and dissemination of promotional materials).
11. Describe in detail your participation in the Internet website www.agaricus.net, including, but not limited to, the registration for the domain "agaricus.net," the use of your name and telephone numbers appearing on the website, testimonials from you appearing on the website, and the solicitation for participation in an ongoing study in the USA of RAAX11 appearing on the website. Also include the date you began receiving orders for RAAX11 placed on the Internet website www.agaricus.net, how you received these orders, how these orders were filled by you, how you received payment for such orders, and how much you were paid.

12. Describe in detail your participation in any other Internet websites, including, but not limited to, your name, address and/or telephone number appearing on the registration for any domain, and any links between websites, *i.e.*, for ordering RAAX11.
13. Identify and describe in detail all oral and written communications, including email, you have had with the U.S. Food and Drug Administration including, but not limited to any communications concerning warehouse, facility, or other registrations you have had with the agency, and concerning the agency's letter to you dated April 2008.
14. Disclose the name, address, and telephone number of each consumer either that has purchased the product RAAX11 from you or to whom you have shipped the product RAAX11, and provide the amount each consumer purchased in terms of total number of bottles and total amounts paid for the product.
15. Identify and describe in detail all oral and written communications, including email, you received, from consumers concerning the marketing and sale of the product RAAX11 and/or the participation in a study of RAAX11, including disclosing the total amount of refunds requested by consumers and the total amount of refunds to consumers, in terms of units and dollars, that you have made for RAAX11 for each year from 2004 to the present.
16. Identify and describe in detail all reliable scientific evidence that demonstrates that RAAX11 is effective in the prevention and cure of cancer.
17. Identify and describe in detail all evidence that you relied upon to substantiate the representations that RAAX11 is effective in the treatment and cure of various types of cancer, including, but not limited to leukemia and cancers of the breast, brain, lung, larynx, pancreas, and bowel; and that RAAX11 is effective in the prevention of cancer, including, but not limited to uterine cancer.
18. Identify by name, address, and account number any bank or other financial accounts that received or disbursed funds relating to the marketing, purchasing, sale, and/or distribution of the product RAAX11. Explain what responsibilities you exercised, or had the authority to exercise, for those bank or other financial accounts, including the names of persons with who you shared the authority, and the type of transactions that were processed through each account.
19. Provide the name and location of any other corporation or business entity in which you hold or held ownership, directorship, or other position of responsibility.
20. Provide a detailed background, regarding your education, including any professional degrees or licenses that you hold, and employment history, including the name and location of your employers and dates of employment.

21. Identify the name and address of the owner of the following telephone numbers:
A) 866-944-7359; B) 828-369-7590; and C) 828-369-5861.

22. Identify and describe in detail all advertising, promotional literature, and other marketing or promotional material disseminated by you or which include your name, telephone number, or other contact information for you.

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**COMPLAINT COUNSEL'S FIRST SET OF INTERROGATORIES TO
RESPONDENT GEMTRONICS, INC.**

Pursuant to RULE OF PRACTICE 3.35, Complaint Counsel requests that Respondent Gemtronics, Inc. respond to these Interrogatories within 30 days and furnish the requested information to Complaint Counsel at the Federal Trade Commission, 225 Peachtree Street, N.E., Suite 1500, Atlanta, GA 30303, or at such time and place as may be agreed upon by all counsel.

DEFINITIONS

- 1) "Communication(s)" includes, but is not limited to, any and all conversations, meetings, discussions and any other occasion for verbal exchange, whether in person, by telephone, or electronically, as well as all letters, memoranda, telegrams, cables, and other writings or documents.
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book, data compilation, tests, reports, clinical studies, test reports, scientific literature, articles, expert opinions, handwritten notes, correspondence, communications, electronic mail, electronically stored data, computer material, and video and audio records.

- 4) “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.
- 5) “Identify” or “identification” means:
 - a) when referring to a natural person, state the full name, present business address and telephone number, or if a present business affiliation or business address is not known, by the last known business and home address and business and home telephone numbers;
 - b) when referring to any other entity, such as a business or organization, state the legal names as well as any other names under which the entity has done business, address, telephone number and contact person, if applicable for that entity; and
 - c) when referring to a document or communication, state the full name(s) of the author(s) or preparer(s), the full name of the recipient(s), addressee(s), and/or person(s) designated to receive copies, the title or subject line of the document or communication, a brief description of the subject matter of the document or communication, the date it was prepared, its present location, and its present custodian.
- 6) “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.
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- 9) “Promotional material” shall mean 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, stickers, 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, streaming video, electronic mail, web page, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, or publication or broadcast in any other medium.

- 10) "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.
- 11) "Respondent" means the Corporate Respondent, Gemtronics, Inc.
- 12) "You" or "your" means the Corporate Respondent, Gemtronics, Inc. ("Gemtronics").
- 13) The use of the singular includes the plural, and the plural includes the singular.
- 14) The use of a verb in any tense shall be construed as the use of the verb in all other tenses.
- 15) The spelling of a name shall be construed to include all similar variants thereof.

INSTRUCTIONS

- 1) Unless otherwise specified, the time period covered by an Interrogatory shall not be limited and all information responsive to the Interrogatory, regardless of dates or time periods involved, shall be provided.
- 2) Each Interrogatory should be set forth in full preceding the answer to it and should be answered separately and fully in writing, under oath.
- 3) All answers shall be served within 30 days after service of these Interrogatories.
- 4) Information covered by these Interrogatories is that which is in your knowledge or possession, or under your actual or constructive custody or control, whether or not such information is located in the files of, or possessed by your individual officers, directors or employees, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers or employees.
- 5) All information submitted in response to these Interrogatories shall be clearly and precisely identified as to the Respondent(s) who produced the information.
- 6) When an Interrogatory requests an answer or portion of an answer that has already been supplied in response to another Interrogatory, the answer or portion of the answer need not be supplied a second time. It is sufficient to specify the responses that contain the answer, and supply any additional information necessary to answer the Interrogatory.
- 7) All objections to these Interrogatories, or to any individual Interrogatory, must be raised in the initial response or are otherwise waived.
- 8) If you object to any Interrogatory or a part of any Interrogatory, state the Interrogatory or part to which you object, state the exact nature of the objection, and describe in detail the facts

upon which you base your objection. If any Interrogatory cannot be answered in full, it shall be answered to the fullest extent possible and reasons for the inability to answer fully shall be provided. If you object to any Interrogatory on the grounds of relevance or overbreadth, you shall provided all responsive information that is concededly relevant to the parties' claims or defenses or the requested relief. For each Interrogatory that cannot be answered in full, you shall describe the efforts made to locate information needed for such answer.

9) If any documents or communications are identified in response to an Interrogatory on grounds 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 or communication is privileged, all non-privileged portions of the item must be identified.

10) These Interrogatories are 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 Interrogatory appear in parentheses within or following that Interrogatory.

INTERROGATORIES

1. Provide the name, address and telephone number of each individual involved in the operations of the corporate respondent Gemtronics, Inc., including but not limited to, providing the title, dates of employment and employment responsibilities of and any work performed by each individual, any percentage of ownership, and an explanation of that person's day-to-day responsibilities and activities with respect the corporation.
2. Confirm whether Gemtronics, Inc. is still operating. If not, indicate the date the corporation ceased operations and describe in detail what measures were taken, if any, to dissolve the corporation, including, but not limited to the filing of any documents with the North Carolina Secretary of State, the transfer or other disposition of any assets of the corporation, and what efforts were undertaken to wind down the corporation's operations.
3. Describe in detail all written and oral instructions you provided to Gemtronics' employees, agents, or representatives relating to the advertising, promoting, offered for sale, sale, and distributing the product RAAX11 by, or on behalf of, the corporate respondent.
4. Identify by name, location, and account number any bank other financial accounts that received or disbursed funds relating to the marketing, purchasing, sale, and/or distribution of the product RAAX11. Explain what responsibilities you exercised, or had the authority to exercise, for those bank or other financial accounts, including the names of

- persons with who you shared the authority, and the type of transactions that were processed through each account.
5. Identify by name, address and telephone number, the individuals who have or have ever had an ownership interest in the corporate respondent.
 6. Provide the total amount of revenue earned each year by respondent from any activity, since January 2004, including identifying each activity and the amount earned each year for each activity.
 7. Identify and describe in detail the process by which, from whom, and the dates that you have obtained the product RAAX11 and any promotional literature for the product, including, but not limited to, identifying the amount you paid for each bottle of the product RAAX11.
 8. Identify each person consulted by you, or upon whose advice, opinion, or expertise you relied relating to advertising, promoting, offered for sale, sale, and distributing the product RAAX11, provide the substance of such advice, opinion, or expertise furnished to you and any compensation paid for such services.
 9. For each year from 2004 to the present, disclose the total amount of sales in terms of units and dollars that you have achieved for the sales of RAAX11 and identify the source producing the sale, including, but not limited to, the specific Internet website, newspaper advertisement, promotional mailing, etc. For each year, provide a total amount of sales, as well as a break down of the amount of sales from each source.
 10. Identify and describe in detail any other payments you have received (other than the sales listed in response to Interrogatory No. 9), directly or indirectly, in connection with the advertising, marketing, promotion, sale and/or distribution of the product RAAX11 for each year from 2004 to the present. (This request includes the total dollar amount and source for each payments.)
 11. Identify and describe in detail the nature of your business relationship, and when and how you began doing business with Takesun do Brasil and/or George Otto, aka Georg Otto Kather, including, but no limited to, identifying all communications and any contracts or agreements, oral or written, any payments or other compensation, and the purchase or other provision of supplies, computer or other equipment, between you and Takesun do Brasil and/or George Otto. Also identify and describe in detail and any advertising or promotional material containing your name and Takesun do Brasil and/or George Otto.
 12. Identify and describe in detail the nature of your business relationship, and when and how you began doing business with Takesun USA, including, but no limited to, identifying all communications and any contracts or agreements, oral or written, any payments or other compensation between you and Takesun USA, and any advertising or promotional material containing your name and Takesun USA.

13. Describe in detail any communications and any contracts or agreements, oral or written, that you have had with any companies or individuals related to advertising, promoting, offering for sale, sale and/or distribution of RAAX11.
14. Disclose the total amount of dollars that you have spent to advertise, market, or otherwise promote the product RAAX11 for each year from 2004 to the present, broken down by each medium used (*i.e.*, print, Internet, radio, or other means). (This request includes, but is not limited to, all expenditures attributable to the creation, development, evaluation, approval, modification, and dissemination of promotional materials).
15. Describe in detail your participation in the Internet website www.agaricus.net, including, but not limited to, the date you began receiving orders for RAAX11 placed on the Internet website www.agaricus.net, how you received these orders, how these orders were filled by you, how you received payment for such orders, and how much you were paid.
16. Describe in detail your participation in any other Internet websites, including, but not limited to, your name, address and/or telephone number appearing on the registration for any domain, and any links between websites, *i.e.*, for ordering RAAX11.
17. Identify and describe in detail all oral and written communications, including email, you have had with the U.S. Food and Drug Administration including, but not limited to any communications concerning warehouse, facility, or other registrations you have had with the agency, and concerning the agency's letter to you dated April 2008.
18. Disclose the name, address, and telephone number of each consumer either that has purchased the product RAAX11 from you or to whom you have shipped the product RAAX11, and provide the amount each consumer purchased in terms of total number of bottles and total amounts paid for the product.
19. Identify and describe in detail all oral and written communications, including email, you received, from consumers concerning the marketing and sale of the product RAAX11, and/or the participation in a study of RAAX11, including disclosing the total amount of refunds requested by consumers and the total amount of refunds to consumers, in terms of units and dollars, that you have made for RAAX11 for each year from 2004 to the present.
20. Identify and describe in detail all reliable scientific evidence that demonstrates that RAAX11 is effective in the prevention and cure of cancer.
21. Identify and describe in detail all evidence that you relied upon to substantiate the representations that RAAX11 is effective in the treatment and cure of various types of cancer, including, but not limited to leukemia and cancers of the breast, brain, lung, larynx, pancreas, and bowel; and that RAAX11 is effective in the prevention of cancer, including, but not limited to uterine cancer.

22. Identify by name, address, and account number any bank or other financial accounts that received or disbursed funds relating to the marketing, purchasing, sale, and/or distribution of the product RAAX11. Explain what responsibilities you exercised, or had the authority to exercise, for those bank or other financial accounts, including the names of persons with who you shared the authority, and the type of transactions that were processed through each account.

23. Identify and describe in detail all advertising, promotional literature, and other marketing or promotional material disseminated by you or which include your name, telephone number, or other contact information for you.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

GEMTRONICS, INC.,
a corporation, and

WILLIAM H. "BILL" ISELY,
individually and as the principal
of Gemtronics, Inc.

DOCKET No. 9330

Public Document

COMPLAINT COUNSEL'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS TO
RESPONDENT WILLIAM H. ISELY

Pursuant to RULE OF PRACTICE 3.37(a), Complaint Counsel requests that Respondent Isely produce the documentary materials and tangible things identified below for inspection and copying within 20 days at the Federal Trade Commission, 225 Peachtree Street, N.E., Suite 1500, Atlanta, GA 30303, or at such time and place as may be agreed upon by all counsel.

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) "Communication(s)" includes, but is not limited to, any and all conversations, meetings, discussions and any other occasion for verbal exchange, whether in person, by telephone, or electronically, as well as all letters, memoranda, telegrams, cables, and other writings or documents.
- 3) "Complaint" means the administrative Complaint issued by the Federal Trade Commission, and any amendments thereto, in the above-captioned matter.
- 4) "Document" means the complete original and any non-identical copy (whether different from the original because of notation 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 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 material, and video and audio records.

5) “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.

6) “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.

7) “Interrogatories” means any and all Interrogatories served on the Respondent in the above-captioned matter.

8) “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.

9) “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.

10) “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.

11) “Promotional material” shall mean 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, stickers, 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, streaming video, electronic mail, web page, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, or publication or broadcast in any other medium.

- 12) "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.
- 13) "Respondent" means the Individual Respondent, William H. Isely.
- 14) "You" or "your" means the Individual Respondent, William H. Isely.
- 15) The use of the singular includes the plural, and the plural includes the singular.
- 16) The use of a verb in any tense shall be construed as the use of the verb in all other tenses.
- 17) The spelling of a name shall be construed to include all similar variants thereof.

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 coverings 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 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 information is located in the files of, or possessed by your individual officers, directors or employees, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers or 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 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 document responsive to a Specification has 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 tracking number 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 digital 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 privileged, submit together with such claim a schedule of the items withheld which state 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 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 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.

SPECIFICATIONS

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

1. All documents and communications consulted or used in preparing your responses to Complaint Counsel's interrogatories to you.
2. All advertising and promotional materials for RAAX11 or that include RAAX11, whether in draft or final form.
3. All documents and communications referring or relating to draft or final advertising or promotional materials for RAAX11. (This request includes but is not limited to contracts, documents, and communications evidencing the creation, modification, approval, execution, evaluation, dissemination, dissemination schedule, clearance, or placement of promotional materials, and documents referring or relating to the contents of drafts or final promotional materials, including but not limited to any claims, messages, or communication in any draft or final promotional material(s).)
4. All documents and communications referring or relating to scientific evidence that demonstrates that RAAX11 is effective in the prevention and cure of cancer.
5. All documents and communications referring or relating to evidence that you relied upon to substantiate representations that RAAX11 is effective in the treatment and cure of various types of cancer, including, but not limited to leukemia and cancers of the breast, brain, lung, larynx, pancreas, and bowel; and that RAAX11 is effective in the prevention of cancer, including, but not limited to uterine cancer.
6. All documents and communications referring or relating to the duties, responsibilities, and work performed by you with respect to the advertising, promoting, offered for sale, sale, and distributing RAAX11.
7. All documents and communications referring or relating to the marketing of RAAX11. (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.)
8. All documents and communications referring or relating to complaints or investigations of RAAX11 or promotional materials for RAAX11. (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 local, state, or federal regulators (including the U.S. Food and Drug Administration) or other persons

(including but not limited to consumers, competitors, and entities such as the Better Business Bureau or the National Advertising Division.)

9. All tax returns for from 2004 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.)
10. All documents relating to the corporate structure of each company for which you are an officer, director or significant shareholder (25% or more of total shares), including but not limited to Articles of Incorporation; by-laws; board minutes; annual reports; information showing the date and place of the formation of the company, and the form of organization of the company; parent organization, if any, and all subsidiaries and affiliates; annual or periodic filings with state or federal authorities regulating corporations; the names of all directors; the name and title of all officers; supervisors, and managers; organizational charts; documents showing the ownership interests of all owners; documents describing the duties, responsibilities and authority of all officers, managers, directors, and supervisors employed by you; and any documents delegating authority to engage in any act on behalf of you or act as agent for you.
11. Annually, from the date of the first sale of RAAX11 to date, all documents that show net and gross sales figures and profit figures for RAAX11.
12. All documents and communications with, or referring or relating to, Takesun do Brasil, its officers, agents and/or representatives.
13. All documents and communications with, or referring or relating to, George Otto, aka Georg Otto Kather.
14. All documents and communications with, or referring or relating to, Takesun USA, its officers, agents and/or representatives.
15. All documents and communications relating to any Internet website www.agaricus.net and any other website on which RAAX11 was sold, advertised, or promoted, including, but not limited to any communications with domain registrars, webmasters, webhosting services, and/or I.P. servers.
16. All documents and communications relating to consumers, including but not limited to documents and communications relating to the purchase and sale of RAAX11, such as consumer complaints, inquiries about the product, invoices, bills of sale, and shipping documentation; and relating to the participation by any consumer in any test or study of RAAX11.

17. All documents and communications with entities and/or individuals concerning the purchase and/or resale of RAAX11, including but not limited to communications concerning any distributorships.
18. All documents and communications relating to any service agreements, contracts or other sales or payment arrangements with merchant banks, payments processors or others involved in the processing of credit card, debit card or other form of payment for purchases of RAAX11 from the Internet website www.agaricus.net and any other website on which RAAX11 was advertised, promoted, or sold.
19. All documents referred to in Respondents' Initial Disclosures.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of
GEMTRONICS, INC.,
a corporation, and
WILLIAM H. "BILL" ISELY,
individually and as the principal
of Gemtronics, Inc.

DOCKET No. 9330

Public Document

**COMPLAINT COUNSEL'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTARY MATERIALS AND TANGIBLE THINGS TO
RESPONDENT GEMTRONICS, INC.**

Pursuant to RULE OF PRACTICE 3.37(a), Complaint Counsel requests that Respondent Gemtronics, Inc. produce the documentary materials and tangible things identified below for inspection and copying within 20 days at the Federal Trade Commission, 225 Peachtree Street, N.E., Suite 1500, Atlanta, GA 30303, or at such time and place as may be agreed upon by all counsel.

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) "Communication(s)" includes, but is not limited to, any and all conversations, meetings, discussions and any other occasion for verbal exchange, whether in person, by telephone, or electronically, as well as all letters, memoranda, telegrams, cables, and other writings or documents.
- 3) "Complaint" means the administrative Complaint issued by the Federal Trade Commission, and any amendments thereto, in the above-captioned matter.
- 4) "Document" means the complete original and any non-identical copy (whether different from the original because of notation 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 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 material, and video and audio records.

5) “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.

6) “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.

7) “Interrogatories” means any and all Interrogatories served on the Respondent in the above-captioned matter.

8) “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.

9) “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.

10) “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.

11) “Promotional material” shall mean 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, stickers, 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, streaming video, electronic mail, web page, audio program transmitted over a telephone system, script used to make oral solicitations to consumers, or publication or broadcast in any other medium.

12) “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.

- 13) "Respondent" means the Corporate Respondent, Gemtronics, Inc.
- 14) "You" or "your" means the Corporate Respondent, Gemtronics, Inc. ("Gemtronics").
- 15) The use of the singular includes the plural, and the plural includes the singular.
- 16) The use of a verb in any tense shall be construed as the use of the verb in all other tenses.
- 17) The spelling of a name shall be construed to include all similar variants thereof.

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 coverings 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 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 information is located in the files of, or possessed by your individual officers, directors or employees, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers or 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 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 document responsive to a Specification has 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 tracking number 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 digital 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 privileged, submit together with such claim a schedule of the items withheld which state 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 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 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.

SPECIFICATIONS

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

1. All documents and communications consulted or used in preparing your responses to Complaint Counsel's interrogatories to you.
2. All documents referred to in Respondents' Initial Disclosures.
3. Documents sufficient to show the legal name and address of respondent; the names and titles of all respondent's officers, directors, managers, supervisors, and principal stockholders or owners (10 percent or more); the date and state of incorporation; the legal name(s) and address(es) of any parent or affiliated company or companies; and the relationship of each to respondent.
4. Documents sufficient to show all active ingredients, as well as the percentage of each ingredient contained in RAAX11; and, if changes were made in the active ingredients or their strengths, the dates of such changes.
5. Documents sufficient to show respondent's total annual gross revenues from the sale of RAAX11 for each year from 2004 to date, including a break-down by purchases made over the telephone, via email, via each Internet website, and through any retail or any other form of sales.
6. Documents sufficient to show respondent's balance sheets and statements of income and expenses for each calendar or fiscal year from 2004 to date.
7. One sample of RAAX11. Also, provide a sample of each different package or product label, package insert, and instructions for RAAX11. For each package or product label, package insert, and instructions provided, identify the time period for which it was used.
8. Documents sufficient to show a complete media schedule of all advertisements of any nature for RAAX11 disseminated since January 1, 2004, showing the media outlets used and their addresses, the names of any endorsers used, and the dates of each advertisement.
9. A copy of each different advertisement and promotional material for RAAX11, disseminated by respondent or its representatives in any medium since January 1, 2004, or prepared for future dissemination. In the case of a website referring to RAAX11, provide a complete printout of the entire website; and if changes have been made to the website since January 1, 2004, identify the changes made and the dates of such changes. In the case of e-mail solicitations and advertisements appearing on the Internet, the World Wide Web, or commercial online services such as America Online, submit a copy or transcript of each advertisement. In the case of print advertisements or written promotional material submit a copy of each advertisement and promotional material. For

each such advertisement or promotional material provided, identify the time period for which it was used.

10. Documents sufficient to show the total dollar amount spent by respondent on the advertising, marketing, or other promotion of RAAX11 for each year since January 1, 2004 to date.
11. Documents sufficient to show the name(s), address(es) and telephone number(s) of all Gemtronics employees, as well as any independent contractor, who had any role in, or responsibility for, developing or reviewing substantiation, scientific or otherwise, or for representations made in advertising or promotional materials for RAAX11. For each person, identify that person's role or responsibility.
12. Documents sufficient to show the name(s), address(es) and telephone number(s) of all Gemtronics employees, as well as any independent contractor, advertising agency, website developer, or other person who had any role in, or responsibility for, the development or content of any advertising or promotional material disseminated by respondent or its representatives for RAAX11 in any medium since January 1, 2004.
13. All documents, prepared by or for respondent, including those prepared by or for any advertising agency, that refer or relate to data or analyses of consumer perception, comprehension, or recall of any draft or final advertisement for RAAX11. This request includes, but is not limited to, copy tests, marketing or consumer surveys and reports, penetration tests, audience reaction tests, and communication tests. Also, include copies of any other market research, media plans, or copy strategies prepared by or for respondent, including those prepared by and for any advertising agency, that refer or relate to consumer attitudes or beliefs about weight loss.
14. All documents relating to endorsements, and what compensation, of any kind, was provided to each endorser of RAAX11.
15. Documents sufficient to show all relationships between and among respondent and its principals and any persons or organizations to which respondent links or refers on any website used to advertise RAAX11. In each such instance, include any contracts or agreements, the amount of any payments or other compensation, and the purpose of such payments or compensation.
16. Documents sufficient to show the names, addresses, and telephone numbers of:
 - a. the manufacturer(s) of RAAX11; and
 - b. the supplier(s) to Gemtronics of RAAX11 or any of its ingredients.
17. Documents sufficient to show all contracts or agreements between respondent and any person or entity, regarding the testing, manufacture, distribution, marketing, or sale of RAAX11.

18. All documents relating to communications between respondent and the Food & Drug Administration referring or relating to RAAX11.
19. All documents relating to complaints, expressions of dissatisfaction or requests for refunds received directly from consumers and/or from complaint-handling agencies (e.g., Better Business Bureau or state attorney general offices) relating to RAAX11 and respondent's written response thereto. Such documents should include all records of complaints, expressions of dissatisfaction or requests for refunds relating to RAAX11 maintained by respondent, including any electronic databases of telephone calls from consumers.
20. All documents that relate to any investigative demand, lawsuit, or other legal proceeding filed by or against respondent relating to RAAX11 including documents indicating the names of all parties, the cause numbers, the names and locations of the courts where filed, the general nature of the lawsuits, transcripts any depositions taken by any party, any settlement documents, and the final disposition or current status of the investigative demand, lawsuit, or other legal proceeding.
21. Copies of all documents, which constitute competent and reliable scientific evidence, that either substantiate or contradict the following claims:
 - a. That RAAX11 is effective in the treatment and cure of various types of cancer, including, but not limited to leukemia and cancers of the breast, brain, lung, larynx, pancreas, and bowel; and
 - b. That RAAX11 is effective in the prevention of cancer, including, but not limited to uterine cancer.

Such response should identify all tests, studies, or research submitted, including all draft and final reports, underlying data, and protocols, and should identify the name and date of each journal or publication in which the research or clinical studies produced was published or is to be published. The response should also identify the date(s) on which respondent came into possession of each test, study, or research submitted.

22. All documents relating to research on, or studies or clinical trials of RAAX11. Such documents should include:
 - a. all contracts or agreements, mail and electronic correspondence, communications and notes of communications between Gemtronics and any entities conducting the research;
 - b. all documents relating to study design and protocols, including the planning, conduct and evaluation of the studies;
 - c. all documents relating to criteria for and records of subject recruitment, all instructions to interviewers of study subjects, all questionnaires used in the studies, all documents and data relating to monitoring study subjects' compliance and the honesty and accuracy of subjects' self-reporting;

- d. all draft and final reports, study notes, raw data, and data compilations; and
 - e. all evaluations, critiques, comments, reviews, peer-review evaluations, and, where applicable, editorial comments concerning such research, study or clinical trial.
23. Documents sufficient to show the legal name, address and telephone number of the following entities and individuals, and the relationship, if any, of each to respondent Gemtronics:
- a. Takesun do Brasil
 - b. Takesun USA
 - c. Takesun.com
 - d. George Otto, aka George Otto Kather
24. Documents sufficient to show the date of incorporation or the effective date of each partnership, limited partnership, corporation, limited liability corporation, or other entity listed in Request No. 22, above, and the total amount of compensation, benefits or other payments made by each entity to respondent Gemtronics.
25. All documents, contracts, agreements, vendor orders, or other legal documents signed by William Isely on behalf of Gemtronics.
26. Documents sufficient to show the name(s), address(es) and telephone number(s) of all merchant banks, payments processors or others involved in the processing of credit card, debit card or other form of payment for purchases of RAAX11 from the Internet website www.agaricus.net and any other website on which RAAX11 was advertised, promoted, or sold. Also include all documents and communications relating to any agreements, contracts or other sales or payment arrangements for the above-mentioned payment provisions.
27. All tax returns for from 2004 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.)

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a copy of:

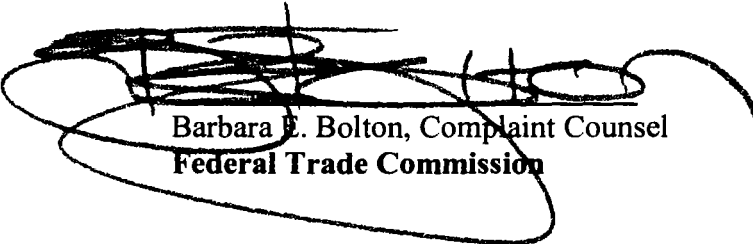
- 1) Complaint Counsel's First Set of Interrogatories to Respondent Isely;
- 2) Complaint Counsel's First Set of Interrogatories to Respondent Gemtronics, Inc.;
- 3) Complaint Counsel's First Request for Production of Documents to Respondent Isely;
and
- 4) Complaint Counsel's First Request for Production of Documents to Respondent Gemtronics, Inc.

to be served via facsimile and paper copy by first class mail to the following:

Matthew I. Van Horn, Esq.
Matthew I. Van Horn Law Office
16 W. Martin Street
Raleigh, SC 27601
(919) 835-0880
(919) 835-2121 (fax)

Counsel for Respondents

Date: 12/16/08



Barbara E. Bolton, Complaint Counsel
Federal Trade Commission

APPENDIX B

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of
GEMTRONICS, INC.,
a corporation, and
WILLIAM H. "BILL" ISELY,
individually and as the principal
of Gemtronics, Inc.

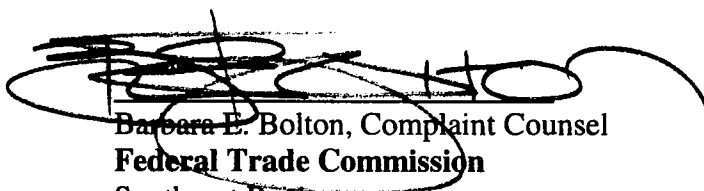
DOCKET No. 9330

NOTICE OF DEPOSITION OF WILLIAM H. ISELY

PLEASE TAKE NOTICE that pursuant to Rule of Practice 3.33, the Federal Trade Commission will take the deposition of William H. Isely, Thursday, January 15, 2009, at 10:00 a.m., at a location to be determined in Franklin, North Carolina 28734

The deposition is to be upon oral examination for the purposes of discovery before a notary public or some other officer authorized to administer oaths. The deposition shall be recorded stenographically.

The deposition may be used as evidence in this action or such other purposes as may be authorized under applicable statutes and/or rules of the court. You are invited to attend and cross-examine.



Barbara E. Bolton, Complaint Counsel
Federal Trade Commission
Southeast Region
225 Peachtree Street, Suite 1500
Atlanta, GA 30303
(404) 656-1362

Date: January 8, 2009

APPENDIX C

RECEIVED

JAN 20 2009

ATLANTARO
ETC

POST OFFICE BOX 1309
RALEIGH, NORTH CAROLINA 27602

matthew@vanhornlawfirm.com

also licenced in VA, DC and OK

MATTHEW I. VAN HORN
PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEY AT LAW

16 WEST MARTIN STREET, SUITE 700
RALEIGH, NORTH CAROLINA 27601

TELEPHONE (919) 835-0880
FACSIMILE (919) 835-2121

January 13, 2009

**VIA FACSIMILE: (404) 656-1379
and United States Mail**

Ms. Barbara E. Bolton
Federal Trade Commission
225 Peachtree Street, N. E.
Suite 1500
Atlanta, GA 30303

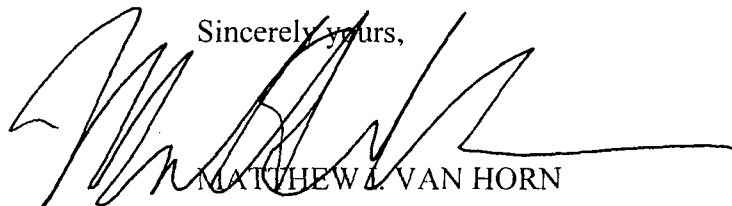
Re: Gemtronics, Inc. and William H. Isely, FTC Docket No. 9330

Dear Barbara,

This letter shall serve to memorialize our telephone conversation of this date wherein we agreed that the deposition of William H. Isely will take place on Wednesday, January 21, 2009, at the hour of 10:00 A.M. at the Hampton Inn located at 244 Cunningham Road, Franklin, NC 28737.

Thank you again for your courtesies and attention to this matter and I shall look forward to seeing you next week.

Sincerely yours,



MATTHEW I. VAN HORN

MIVH:lr

cc: Mr. William Isely

CERTIFICATE OF SERVICE

I hereby certify that on this date, I filed and served the attached:

1. **COMPLAINT COUNSEL'S MOTION AND MEMORANDUM TO COMPEL ANSWERS TO INTERROGATORIES, PRODUCTION OF DOCUMENTS, AND DEPOSITION OF RESPONDENT ISELY;**
2. **[Proposed] ORDER GRANTING MOTION TO COMPEL DISCOVERY;** and
3. **[Proposed] ORDER GRANTING MOTION TO COMPEL DEPOSITION OF RESPONDENT ISELY** upon the following as set forth below:

The original and one (1) paper copy via overnight delivery and one (1) electronic copy via email to:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, D.C. 20580
email: secretary@fic.gov

One (1) email copy and two (2) paper copies served by overnight mail delivery to:

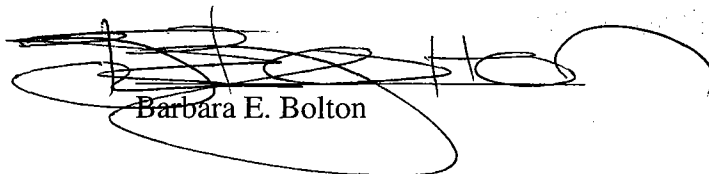
The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., N.W. Room H-112
Washington, D.C. 20580
email: oyalj@ftc.gov

One (1) electronic copy via email and one (1) paper copy via overnight delivery to:

Matthew I. Van Horn
16 W. Martin Street, Suite 700
Raleigh, NC 27602
email: matthew@vanhornlawfirm.com
919-835-0880
919-835-2121

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original, and that a paper copy with an original signature is being filed with the Secretary of the Commission on the same day by other means.

Dated: January 21, 2009


Barbara E. Bolton