

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

In the Matter of

**HEALTH RESEARCH LABORATORIES, LLC,
a limited liability company,**

**WHOLE BODY SUPPLEMENTS, LLC,
a limited liability company, and**

**KRAMER DUHON,
individually and as an officer of
HEALTH RESEARCH LABORATORIES, LLC
and WHOLE BODY SUPPLEMENTS, LLC.**

DOCKET NO. 9397

COMPLAINT COUNSEL'S PRELIMINARY WITNESS LIST

Pursuant to the Scheduling Order in this matter, Complaint Counsel provides our preliminary witness list. We reserve the right:

- A. to present testimony, by deposition or orally by live witness, from any other person who may be identified by Respondents as a potential witness in this matter and any person from whom discovery is sought;
- B. to further supplement or revise this preliminary witness list as discovery progresses and circumstances may warrant;
- C. to identify rebuttal witnesses after we have an opportunity to depose Respondents' witnesses and review Respondents' expert reports; and
- D. not to call any of the persons listed below to testify at the hearing in this matter, as circumstances may warrant.

Subject to these reservations, our preliminary list of witnesses is as follows:

1. Kramer Duhon

Kramer Duhon is a Respondent in this matter. He is the owner and has served as a managing member and officer of Health Research Laboratories, LLC (“HRL”) and Whole Body Supplements, LLC (“WBS”). We expect Mr. Duhon may testify about:

- Management, ownership, and operation of HRL and WBS
- His roles and responsibilities related to HRL and WBS
- Kyle Duhon’s roles and responsibilities related to HRL and WBS
- Employees, agents, and consultants working with HRL and WBS
- Advertising and marketing related to Neupathic, The Ultimate Heart Formula (“UHF”), Black Garlic Botanicals, and BG18
- Development, design, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Scientific evidence or substantiation that Respondents possessed and/or relied upon to support claims in advertising for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Information related to the dissemination of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Sales information and revenues for Neupathic, UHF, Black Garlic Botanicals, and BG18 after January 16, 2018
- Customer demographics and/or target markets for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Formulation of Neupathic, UHF, Black Garlic Botanicals, and BG18
- FDA warning letter issued to HRL and Mr. Duhon dated October 9, 2014
- Authenticity of documents submitted to the FTC by Mr. Duhon, HRL, or WBS
- Authenticity of corporate documents and filings of HRL and WBS
- Factual bases for the defenses asserted in Respondents’ Answer

2. Kyle Duhon

Kyle Duhon is Kramer Duhon’s nephew and worked with the Respondents. We expect that he may testify about:

- Employees, agents, consultants, and organizational structure of HRL and WBS
- Management and operation of HRL and WBS
- His roles and responsibilities related to HRL and WBS
- Kramer Duhon’s roles and responsibilities related to HRL and WBS
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, design, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Scientific evidence that Respondents possessed and/or relied upon to support claims in advertising for Neupathic, UHF, Black Garlic Botanicals, and BG18

- Information related to the dissemination of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Sales information and revenues for Neupathic, UHF, Black Garlic Botanicals, and BG18 after January 16, 2018
- Customer demographics and/or target market for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Formulation of Neupathic, UHF, Black Garlic Botanicals, and BG18
- FDA warning letter issued to HRL and Kramer Duhon dated October 9, 2014
- Authenticity of documents submitted to the FTC by Mr. Duhon, HRL, or WBS
- Factual bases for the defenses asserted in Respondents' Answer

3. Richard Cohen

Richard Cohen worked with the Respondents and is featured in advertising for Neupathic, UHF, Black Garlic Botanicals, and BG18. He reviewed advertising for the Respondents. We expect that Mr. Cohen may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Mr. Cohen provided to Respondents
- Mr. Cohen's qualifications, areas of expertise, and/or professional background
- Contracts or agreements with Respondents
- Mr. Cohen's endorsements and statements in advertising for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Scientific evidence or substantiation related to claims in advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Authenticity of documents produced to Complaint Counsel related to this matter

4. Inna Yegorova

Ms. Yegorova worked with the Respondents. We expect that she may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Ms. Yegorova and/or Inna Consulting provided to Respondents
- Ms. Yegorova's qualifications, areas of expertise, and/or professional background
- Contracts or agreements with Respondents
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18

- Scientific evidence or substantiation related to claims in advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Authenticity of documents produced to Complaint Counsel related to this matter

5. Kurt Komae

Mr. Komae is a copywriter who has worked with the Respondents. We expect Mr. Komae may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Mr. Komae provided to Respondents
- Respondents' advertising and marketing after January 16, 2018

6. Curtis Walcker

Mr. Walcker is an owner of Dietary Supplement Experts, LLC and worked with the Respondents as a consultant. We expect he may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services and products that Mr. Walcker and/or Dietary Supplement Experts, LLC provided to Respondents
- Mr. Walcker's qualifications, areas of expertise, and/or professional background
- Contracts or agreements with Respondents
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Scientific evidence or substantiation related to claims in advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Authenticity of documents produced to Complaint Counsel related to this matter

7. Andrew Graham or corporate designee under Rule 3.33(c)(1) for Ship-Right Solutions, LLC

Complaint Counsel's understanding is that Ship-Right Solutions, LLC handled fulfillment of orders and some customer service functions for the Respondents. We expect that Mr. Graham or another corporate designee may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Communications with Respondents' customers about Neupathic, UHF, Black Garlic Botanicals, or BG18
- Services or products that Ship-Right Solutions, LLC provided to Respondents

- Authenticity of documents produced to Complaint Counsel related to this matter

8. Stephen Kimball

Complaint Counsel's understanding is that Mr. Kimball is a copywriter who worked with Respondents on their advertising. We expect Mr. Kimball may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Mr. Kimball and/or Stephen Kimball DM Copywriting, LLC provided to Respondents
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, design, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Scientific evidence or substantiation related to claims in advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Customer demographics and/or target markets for Respondents' advertising and marketing
- Authenticity of documents produced to Complaint Counsel related to this matter

9. Joseph Russo or corporate designee under Rule 3.33(c)(1) for Impulse Media, Inc.

Impulse Media, Inc. worked with Respondents, and Mr. Russo is the President and CEO of the company. We expect that Mr. Russo or another corporate designee may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Mr. Russo and/or Impulse Media, Inc. provided to Respondents
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Customer demographics and/or target markets for Respondents' advertising and marketing
- Customer data used by Respondents for advertising and marketing
- Information related to the dissemination of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Authenticity of documents produced to Complaint Counsel related to this matter

10. Thomas Saracco

Mr. Saracco was the owner of Direct Access Marketing Services, Inc. ("Direct Access"), which ceased doing business in 2018. Direct Access provided products and services to Respondents related to implementing direct mail advertising campaigns. We expect that Mr. Saracco may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon, Kyle Duhon, and/or Impulse Media, Inc.
- Services or products that Direct Access provided to Respondents
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Information related to the dissemination of advertising and marketing by direct mail

11. Scott Scordas

Mr. Scordas and Event Management Concepts, Inc. d/b/a Evolution Marketing Concepts ("EMC") provided products and services to Respondents related to printing and mailing advertisements to consumers in the United States. Mr. Scordas is an owner and officer of EMC. We expect he may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Mr. Scordas and/or EMC provided to Respondents related to advertising for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Production and dissemination of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18 in the United States
- Authenticity of documents produced to Complaint Counsel in this matter

12. Phil Terriaca

Phil Terriaca is a founder of TLC Global Impression ("TLC"), a marketing agency based in Montreal, Canada. TLC worked with Respondents. We expect Mr. Terriaca may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Mr. Terriaca and/or TLC provided to Respondents related to advertising for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Production and dissemination of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18 in Canada
- Authenticity of documents produced to Complaint Counsel in this matter

13. Teddy Liaw or corporate designee under Rule 3.33(c)(1) for NexRep, LLC

Teddy Liaw is the CEO of NexRep, LLC ("NexRep"). Complaint Counsel's understanding is that NexRep assisted Respondents with customer service and/or telemarketing. We expect Mr. Liaw or other corporate designee may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Communications with Respondents' customers related to Neupathic, UHF, Black Garlic Botanicals, or BG18
- Services or products that NexRep provided to Respondents
- Authenticity of documents produced to Complaint Counsel in this matter

14. Jennifer Osterhouse

Ms. Osterhouse is a graphic artist who worked with Respondents to design and develop advertisements for Neupathic and UHF. We expect she may testify about:

- Communications with Kramer Duhon and Kyle Duhon about advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Communications with Stephen Kimball about advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, design, review, revision, and approval of advertisements for Neupathic and UHF (Complaint Exs. C & D)
- Authenticity of documents produced to Complaint Counsel in this matter

15. Joel Myerson or corporate designee under Rule 3.33(c)(1) for Pure Source, LLC

Mr. Myerson is the President of Pure Source, LLC ("Pure Source"). Complaint Counsel's understanding is that Pure Source manufactured and/or packaged Neupathic, UHF, Black Garlic Botanicals, and BG18 for Respondents. We expect Mr. Myerson or another corporate designee may testify about:

- Kramer Duhon's roles and responsibilities related to HRL and WBS
- Communications with Kramer Duhon and Kyle Duhon
- Services or products that Pure Source provided to Respondents
- Formulation of Neupathic, UHF, Black Garlic Botanicals, and BG18, including, but not limited to, type and dose of individual ingredients in each product
- Testing or quality control related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Authenticity of documents produced to Complaint Counsel in this matter

16. Andrew Lustigman

Andrew Lustigman is an attorney and partner at Olshan Frome Wolosky LLP, who previously represented the Respondents. To the extent there is a waiver by Respondents of the attorney-client privilege, Mr. Lustigman may testify about any of the following topics.

- Management, ownership, and operation of HRL and WBS
- Communications with Kramer Duhon or other individuals related to Neupathic, UHF, Black Garlic Botanicals, and BG18

- Employees, agents, and consultants working with HRL and WBS
- Advertising and marketing related to Neupathic, UHF, Black Garlic Botanicals, and BG18
- Development, review, revision, and/or approval of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Scientific evidence or substantiation related to advertising claims for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Information related to the dissemination of advertising and marketing for Neupathic, UHF, Black Garlic Botanicals, and BG18
- Sales information and revenues for Neupathic, UHF, Black Garlic Botanicals, and BG18 after January 16, 2018
- FDA warning letter issued to HRL and Mr. Duhon dated October 9, 2014
- Communications with Kramer Duhon or other individuals related to *FTC and State of Maine v. Health Research Laboratories, LLC et al.*, 2:17-cv-00467-JDL (D. Maine)
- Authenticity of documents submitted to the FTC by Mr. Duhon, HRL, and/or WBS
- Factual bases for the defenses asserted in Respondents' Answer

17. Adam Rottner

Mr. Rottner is an investigator assigned to the FTC's Bureau of Consumer Protection, Division of Enforcement, who has performed website captures related to websites operated by the Respondents and also obtained corporate filings for HRL and WBS. We expect he may testify about:

- His preparation of website captures of HRL and WBS company websites on September 18, 2019
- To the extent that Respondents challenge the authenticity of corporate filings, Mr. Rottner may testify about the corporate records he requested from the Nevada Secretary of State for WBS.

18. Leslie Lewis

Mr. Lewis is a Litigation Support Specialist assigned to the FTC's Bureau of Consumer Protection, Division of Enforcement ("Division"), who is responsible for receiving some documents sent to the Division as well as maintaining records and databases for the Division.

- To the extent Respondents challenge the authenticity of documents previously produced by Respondents to the Division or the authenticity of corporate filings of HRL and WBS obtained by the Division, Mr. Lewis may provide testimony related to the authenticity of documents.

19. Grant Welby

Mr. Welby is a paralegal employed by the Federal Trade Commission, who is assigned to work on this matter with Complaint Counsel. Mr. Welby is serving as a custodian for document productions to Complaint Counsel from third parties and Respondents.

- To the extent Respondents challenge the authenticity of documents produced to Complaint Counsel by third parties or Respondents in this matter, Mr. Welby may provide testimony related to the authenticity of documents.

s/ Elizabeth J Averill

Elizabeth J. Averill

Complaint Counsel

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CERTIFICATE OF SERVICE AND CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on January 15, 2021, I caused a true and correct copy of the foregoing Complaint Counsel's Preliminary Witness List to be filed and served as follows:

One electronic copy via the Administrative E-Filing System and one electronic courtesy copy to the **Office of the Secretary** via email to ElectronicFilings@ftc.gov.

One electronic courtesy copy via email to the **Office of the Administrative Law Judge**:

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave, N.W., Room H-110
Washington, DC 20580

One electronic copy to **Counsel for Respondents**:

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