

Complaint

IN THE MATTER OF

KUSHLY INDUSTRIES LLC**AND****CODY ALT**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTIONS 5 AND 12 OF THE
FEDERAL TRADE COMMISSION ACT*Docket No. C-4749; File No. 202 3111**Complaint, June 29, 2021– Decision, June 29, 2021*

This consent order addresses Kushly Industries LLC’s advertising of products containing cannabidiol. The complaint alleges that Respondents violated Sections 5(a) and 12 of the Federal Trade Commission Act by disseminating false and unsubstantiated advertisements that claimed that: (1) CBD Products effectively treat, mitigate, or cure diseases or health conditions including: sleep disorders, including insomnia and narcolepsy; psychiatric disorders, including depression, bipolar disorder, post-traumatic stress disorder, psychosis, and anorexia nervosa; cancer; multiple sclerosis; Parkinson’s disease; hypertension; Alzheimer’s disease; acne, psoriasis, eczema; arthritis; muscle spasms; pain resulting from endometriosis; and dysmenorrhea; and (2) studies or scientific research prove that CBD Products effectively treat, mitigate, or cure multiple sclerosis, general anxiety disorder, post-traumatic stress disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder, depression, cancer, sleep disorders, hypertension, Parkinson’s disease, Alzheimer’s disease, acne, psoriasis, and eczema, and improve sleep. The consent order prohibits Respondents from making any representation about the efficacy of any covered product, including that such product effectively treats, mitigates, or cures diseases or health conditions including: sleep disorders, including insomnia and narcolepsy; headaches; psychiatric disorders, including depression, bipolar disorder, general anxiety disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder; post-traumatic stress disorder, psychosis, and anorexia nervosa; cancer; multiple sclerosis; chronic drowsiness; Parkinson’s disease; hypertension; Alzheimer’s disease; acne, psoriasis, eczema; arthritis; muscle spasms; pain resulting from endometriosis; and dysmenorrhea, unless the representation is non-misleading, including that, at the time such representation is made, they possess and rely upon competent and reliable scientific evidence that substantiates that the representation is true.

Participants

For the *Commission*: Luis Gallegos and Reid Tepfer.

For the *Respondents*: David Rossiter Callaway, Goodwin Procter LLP.

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The Federal Trade Commission, having reason to believe that Kushly Industries LLC, a limited liability company, and Cody Alt, individually and as an officer of Kushly Industries LLC (collectively, “Respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Kushly Industries LLC (“Kushly”) is an Arizona limited liability company with its principal office or place of business at East Rancho Vista Drive, #3014, Scottsdale, Arizona 85251.

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2. Respondent Cody Alt (“Alt”) is the owner, chief executive officer, and manager of Kushly. Individually or in concert with others, he controls or has had the authority to control, or participates in the acts and practices alleged in this Complaint. His principal office or place of business is the same as Kushly.

3. The acts and practices of Respondents alleged in this Complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

Respondents’ Marketing of CBD Products

4. Cannabidiol (“CBD”) is a non-psychoactive cannabinoid that naturally occurs in, and can be extracted from, the hemp plant, *cannabis sativa*. Respondents have labeled, advertised, promoted, offered for sale, and sold products containing CBD (“CBD Products”) that are intended for human use. These CBD Products are “food” and/or “drugs,” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. Respondents sell various CBD Products, including but not limited to tinctures, gummies, softgel capsules, skincare products, toothpicks, bath salts, and topical ointments. Consumers can purchase Kushly brand CBD Products from Respondents by ordering them through Respondents’ website at Kushly.com.

6. Respondents promote CBD Products through a variety of means, including through their website, Kushly.com, and through social media platforms including, but not limited to, Twitter, Instagram, Snapchat, TikTok, and Facebook.

7. Respondent Alt directly participates in the promotion and advertising of Kushly’s CBD Products and has often been featured and quoted in press articles about Kushly, its products, and the CBD industry.

8. Respondents have disseminated or have caused to be disseminated advertisements, blog and social media posts, and other promotional materials for CBD Products. These advertisements, posts, and materials have included the following statements:

- a. Excerpt from “CBD Lotions – Do They Really Work?” Kushly (Kushly.com), posted Mar. 24, 2020, <https://Kushly.com/blogs/news/cdb-lotion>:

[CBD] also affects the brain positively, allowing for the minimization of symptoms related to anxiety, depression, and other mental disorders. CBD has also shown some promise with regards to the treatment of seizures as well as neurological problems such as Parkinson’s or Alzheimer’s disease....

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- b. Excerpt from “Cannabis Health Benefits For Women: How Cannabis Can Help Maintain Women’s Health,” Kushly (Kushly.com), posted Dec. 1, 2019, <https://Kushly.com/blogs/news/cannabis-health-benefits-for-women>:

The THC content of cannabis helps to minimize the endometriosis pain as it activates the production of dopamine in the body, but CBD has also been hailed as a valuable substance for treating endometriosis with some experts suggesting applying CBD topicals directly to the pain site to help soothe discomforts and aches.

- c. Excerpt from “CBD Oil and Wellness: How Does It Work?” Kushly, (Kushly.com), posted Nov. 29, 2019, Kushly.com/blogs/news/cbd-and-wellness-how-does-it-work:

[T]he active compound, cannabidiol or CBD is getting all the spotlight with its healing potential in treating conditions like eczema, arthritis, some forms of cancers, muscle and joint pains and even Alzheimer’s disease....

Going back to CBD, a lot of studies confirmed that this compound could be used to treat body conditions relating to the endocrine system. Cannabidiol helps you sleep better, ease tensed muscles and painful joints, it equally makes your eczema symptoms vanish without too much effort....

Another good news is that CBD oil can aid in these situations by potentially relieving the pain experienced by women.

When rubbed to the affected areas, a person may instantly feel relieved. The compound is absorbed by the body and it works in the endocrine system. Furthermore, CBD oil contains essential fatty acids that balance out hormones. Due to these, acne can be reduced. Headaches associated with hormonal change and lack of sleep can be relieved using CBD oil.

- d. Excerpt from “Eat Away Chronic Pain: Best CBD-Infused Edibles to Try,” Kushly, (Kushly.com), posted Nov. 28, 2019, Kushly.com/blogs/news/eat-away-chronic-pain-best-cbd-infused-edibles-to-try:

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In fact, many scientists and doctors have stated that CBD can help people with various diseases. Some of these medical conditions include:

- Chronic pain
- Skin diseases
- Anxiety and depression
- Diabetes
- Insomnia and other sleep disorders
- Multiple sclerosis...
- Alzheimer's disease
- Parkinson's disease
- Certain types of cancer...

- e. Excerpt from “Best CBD Oils to Put You to Sleep in Minutes,” Kushly (Kushly.com), posted Oct. 4, 2019, [Kushly.com/blogs/news/best-cbd-oils-to-put-you-to-sleep-in-minutes](https://kushly.com/blogs/news/best-cbd-oils-to-put-you-to-sleep-in-minutes):

Thanks to the discovery and promotion of CBD hemp oil and other products from medical cannabis, millions of sleep-deprived Americans now have help for this insomnia as well as daytime sleepiness or fatigue, restless leg syndrome, and sleep apnea.

- f. Excerpt from “Get to Know: CBD, Its Products, and Applications,” Kushly (Kushly.com), posted Oct. 1, 2019, [Kushly.com/blogs/news/get-to-know-cbd-its-products-and-applications](https://kushly.com/blogs/news/get-to-know-cbd-its-products-and-applications):

Here are some science-backed health benefits of CBD: ...

- Reduction of Anxiety and Depression...

Some studies showed the potential of CBD hemp oil to treat both mental disorders. Many patients prefer this treatment over the use of pharmaceutical drugs, which can result in various side effects such as insomnia, headache, and agitation.

- Capacity to Heal and Protect the Nervous System

CBD's capability to influence the ECS has also an additional benefit, it can treat neurological disorders such as . . . multiple sclerosis.

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- Improvement of Heart Health

A body of research has linked CBD to the improvement in heart function and blood circulation. Experts attribute it to the substance's antioxidant and stress-reducing properties. Moreover, CBD has the capacity to lower blood pressure....

- Treat Acne and Other Skin Diseases

Being an anti-inflammatory substance, CBD is being used to treat acne, psoriasis, and other skin irritations.

- g. Excerpt from “CBD Oil as Aid to Medicine: How Does It Work?” Kushly (Kushly.com), posted Sept. 27, 2019, [Kushly.com/blogs/news/cbd-oil-as-aid-to-medicine-how-does-it-work](https://kushly.com/blogs/news/cbd-oil-as-aid-to-medicine-how-does-it-work):

How is CBD oil aid [sic] to Medicine?...

Aside from helping to alleviate the side-effects of some cancer treatments, CBD oil is also showing potential in preventing the development of cancer itself and the spread of tumors.

- h. Excerpt from “Medical Marijuana,” Kushly (Kushly.com), Sept. 20, 2019, [Kushly.com/blogs/news/how-the-human-body-reacts-to-medical-marijuana](https://kushly.com/blogs/news/how-the-human-body-reacts-to-medical-marijuana):

Furthermore, WHO listed a host of issues that CBD has the potential to alleviate or treat:...

- Anxiety and Depression

Some studies have shown the potential of cannabis to treat both anxiety and depression based illnesses. Many patients prefer to use CBD hemp oil over pharmaceutical drugs. They believe that CBD oil is safer and that pharmaceutical drugs have side effects like insomnia, headache, and agitation....

- Cancer Symptoms...

The substance also has powerful anti-cancer properties.

- i. Excerpt from “This Is Not a Drill: Reasons to Add Cannabis to Your Wellness Routine,” Kushly, (Kushly.com), posted Sept. 15, 2019,

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Kushly.com/blogs/news/reasons-to-add-cannabis-to-your-wellness-routine:

How can CBD improve your Wellbeing?

Here are some of the fantastic benefits cannabidiol can provide for your wellness routine:...

- Promotes Cardiovascular Health...

Researchers found that CBD can help alleviate high blood pressure and Scientists [sic] have pointed out the substance's capacity to reduce stress and anxiety and for lowering blood pressure. Cannabidiol's antioxidant properties can also improve heart function and blood circulation....

- Treats Acne and Other Skin Diseases

...CBD oil is also known for its anti-inflammatory properties and ability to reduce sebum production, which can help to soothe and reduce soreness and skin irritation caused by acne, psoriasis and other skin conditions while keeping the skin nourished and moisturized. CBD oil can also treat eczema by stimulating abnormal cell death....

- Gives Nightly Quality Sleep

To sufferers of insomnia and other sleep disorders, CBD can be a welcome relief. Cannabidiol can be a natural and safe remedy for insomnia.

- j. Excerpt from "Beat Workplace Stress With CBD: Your Guide to Productivity and Ease," Kushly (Kushly.com), posted Aug. 27, 2019, Kushly.com/blogs/news/beat-workplace-stress-with-cbd-your-guide-to-productivity-and-ease:

Apart from chronic pain, one of the primary reasons users take CBD is to reduce anxiety. Studies have shown CBD hemp oil to be a potent treatment to different types of anxiety disorders, such as generalized anxiety disorder and PTSD....

Researchers found that people who take CBD to address their ADHD improved their attentiveness and concentration....

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- k. Excerpt from “Can CBD Help in Treating Mental Illnesses?” Kushly (Kushly.com), posted Aug. 13, 2019, [Kushly.com/blogs/news/can-cbd-help-in-treating-mental-illnesses](https://kushly.com/blogs/news/can-cbd-help-in-treating-mental-illnesses):

Why CBD is a great Treatment for Mental Illnesses...

Here are some effects that make cannabidiol a viable addition to mental illness treatments:...

Depression and manic depression (also called bipolar disorder) are some of the most known mental disorders....

Perhaps one of the most important traits of CBD is its regulatory effects. In skincare, this substance is known to regulate sebum production to avoid oily skin and also jumpstarts oil production to combat dry skin. The same characteristic is observed in regulating mood disorders. It has shown potential in treating depression by giving uplifting effects, while it can address manic episodes by regulating serotonin.

Aids Sleep

Patients suffering from PTSD are known to relive the experience, leading to difficulty falling or staying asleep....

Just like for depression and bipolarism, its mood-enhancing effects makes it feasible for treating mood related manifestations of PTSD and other similar conditions.

Enhances Appetite

Conditions such as anorexia nervosa is [sic] a type of eating disorder. It is characterized by the irrational fear of gaining weight, which leads patients to lose interest in food. It also leads to loss of appetite. Some risk factors include depression, anxiety disorder, and weight consciousness.

Anorexia is one of the qualifying medical conditions for medical marijuana for a good reason. Doctors have classified CBD as an effective aid to medical treatments. Aside from being able to treat depression, this compound can increase the appetite of the patient, allowing them to reach a healthier weight.

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- l. Excerpt from “CBD and Psychotherapy: The Role of Cannabis In Mental Health,” Kushly (Kushly.com), July 24, 2019, Kushly.com/blogs/news/cbd-and-psychotherapy-the-role-of-cannabis-in-mental-health; captured 5/4/20:

CBD Benefits Backed with Science...

Prevent Nerve-Related Diseases...

A more significant finding from a 2008 study showed that cannabidiol helped create new nerve cells in aging brains. As the brain ages, the production of new neurons slows down, which causes degenerative diseases. Therefore, new cells need to be created continuously and CBD can take part in this process. In addition to this, CBD also helps prevent nerve-related illnesses including neuropathy and Alzheimer’s disease.

Reduce Anxiety

According to a 2012 research, a number of respondents shown reduce anxiety symptoms after taking cannabidiol....

Effective for Depression

Clinical depression is a serious mental condition that is characterized by persistent sadness, sudden loss of appetite and suicidal thoughts....

Intake of CBD is proven to stabilize a person’s mood by enhancing serotonergic and glutamate signaling of the brain. Regular intake showed the effectiveness of the compound in making respondents feel better and stress-free.

- m. Excerpt from “Narcolepsy and the Healing Power of CBD Cannabis Oil,” Kushly (Kushly.com), posted July 10, 2019, Kushly.com/blogs/news/narcolepsy-and-the-healing-power-of-cbd-cannabis-oil:

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Narcolepsy and the Healing Power of CBD Cannabis Oil...

Cannabis oil seems to be the answer...

Any person who consumes small doses of CBD will experience a higher state of alertness which is exactly what someone with narcolepsy will require. It will be important for people with this condition to ensure that they take only enough to provide them with the necessary benefits. It has been seen in studies that CBD can help to significantly improve the consistency of sleeping cycles. This results in a situation where a person is able to feel alert for many hours each day.

- n. Excerpt from KushlyBrand, posted Mar. 31, 2020, “Hemp Lotion and It’s Benefits,” www.facebook.com/notes/kushlybrands/hemp-lotion-and-its-benefits/646013019278539/?_tn_=HH-R:

The entire medical community is trying to invest more resources into investigating the effects of CBD, and science has shown that CBD does have anti-inflammatory properties. Here are the top benefits of CBD, as suggested by the users.

- Acne
- Anorexia
- Anxiety
- Chronic pain
- Depression...
- Arthritis
- Seizures...
- High blood pressure
- Insomnia
- Muscle spasms
- Parkinson’s disease

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- o. Excerpt from “6 Reasons Why CBD Cannabidiol Can Help Children with Anxiety,” Kushly (Kushly.com), posted July 14, 2019, <https://Kushly.com/blogs/news/6-reasons-why-cbd-cannabidiol-can-help-children-with-anxiety>; captured 10/22/20:

CBD Cannabidiol Treats Anxiety

Among its many health benefits, CBD also treats mental health problems [hyperlink to: kushly.com/blogs/news/can-cbd-treat-children-with-adhd-and-concentration-problems] such as anxiety. That is why, in the last ten years, many people have turned to CBD for the relief of anxiety. This has been supported by research such as the review that was published in the *Neurotherapeutics* that reported that CBD can effectively reduce anxiety in people with general anxiety disorder, post-traumatic stress disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder. (1). *So far, CBD has not shown any adverse effects when used for these problems and the researchers have called for CBD to be studied further as a potential treatment method for anxiety....*

- p. Excerpt from “Daily Dose of CBD,” Kushly (Kushly.com), posted May 26, 2019, Kushly.com/blogs/news/daily-dose-of-cbd:

How CBD Affects the Brain

- **Protects and Rejuvenates Nerves...**

The discovery of cannabis’ power to prevent brain degeneration is perhaps one of the most important breakthroughs in modern medicine. At a time when Alzheimer’s disease, dementia, Parkinson’s disease, and other neurological diseases affect millions of people, the discovery of cannabis as an effective medicine is a watershed moment in brain research and treatment. This substance is one of the few that has the power to reduce brain damage caused by many factors. It protects the brain from stress caused by traumatic blows, lack of oxygen supply, as well as autoimmune and genetic disorders....

- **Relieves Anxiety and Depression...**

Modern brain-scanning machines, such as fMRI, have found that people with chronic anxiety and depression have a smaller hippocampus, the part of the brain linked to long-

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term memory, spatial navigation and spatial memory, and behavioral inhibition. Because of CBD's ability to regenerate neurons in this area, the behavior and moods of the anxious and depressed can be modified. With a larger hippocampus, they can now better manage their behavior in the face of stress and other emotional trauma.

Count I

False or Unsubstantiated Efficacy Claims Regarding CBD

9. In connection with the advertising, promotion, offering for sale, sale, or labeling of CBD Products, Respondents have represented, directly or indirectly, expressly or by implication, that CBD Products effectively treat, mitigate, or cure diseases or health conditions including: sleep disorders, including insomnia and narcolepsy; psychiatric disorders, including depression, bipolar disorder, post-traumatic stress disorder, psychosis, and anorexia nervosa; cancer; multiple sclerosis; Parkinson's disease; hypertension; Alzheimer's disease; acne, psoriasis, eczema; arthritis; muscle spasms; pain resulting from endometriosis; and dysmenorrhea.

10. The representations set forth in Paragraph 9 are false or misleading, or were not substantiated at the time the representations were made.

Count II

False Establishment Claims Regarding CBD Products

11. In connection with the advertising, promotion, offering for sale, sale, or labeling of CBD Products, Respondents have represented, directly or indirectly, expressly or by implication, that studies or scientific research prove that CBD Products effectively treat, mitigate, or cure multiple sclerosis, general anxiety disorder, post-traumatic stress disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder, depression, cancer, sleep disorders, hypertension, Parkinson's disease, Alzheimer's disease, acne, psoriasis, and eczema, and improve sleep.

12. In fact, studies or scientific research do not prove that CBD Products effectively treat, mitigate, or cure chronic pain, multiple sclerosis, general anxiety disorder, post-traumatic stress disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder, depression, cancer, sleep disorders, hypertension, Parkinson's disease, Alzheimer's disease, acne, psoriasis, and eczema, or improve sleep. Therefore, the representations set forth in Paragraph 11 are false or misleading.

Violations of Sections 5 and 12

13. The acts and practices of Respondents as alleged in this Complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

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THEREFORE, the Federal Trade Commission this 29th day of June, 2021, has issued this Complaint against Respondents.

By the Commission.

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondents named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondents a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondents with violations of the Federal Trade Commission Act.

Respondents and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”). The Consent Agreement includes: 1) statements by Respondents that they neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, they admit the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission’s Rules.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. The Respondents are:
 - a. Respondent Kushly Industries LLC (“Kushly”) is an Arizona limited liability company with its principal office or place of business at East Rancho Vista Drive, #3014, Scottsdale, Arizona 85251.
 - b. Respondent Cody Alt (“Alt”) is the owner, chief executive officer, and manager of Kushly. Individually or in concert with others, he controls or had the authority to control, or participated in the acts and practices

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alleged in this complaint. His principal office or residence is the same as Kushly.

2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER**Definitions**

For purposes of this Order, the following definitions apply:

- A. “CBD Product” means any Drug, Food, or Dietary Supplement containing cannabidiol.
- B. “CBG Product” means any Drug, Food, or Dietary Supplement containing cannabigerol.
- C. “Covered Product” means any Drug, Food, or Dietary Supplement, including but not limited to CBD Products or CBG Products.
- D. “Dietary Supplement” means: (a) any product labeled as a dietary supplement or otherwise represented as a dietary supplement; or (b) any pill, tablet, capsule, powder, softgel, gelcap, liquid, or other similar form containing one or more ingredients that are a vitamin, mineral, herb or other botanical, amino acid, probiotic, or other dietary substance for use by humans to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of any ingredient described above, that is intended to be ingested, and is not represented to be used as a conventional Food or as a sole item of a meal or the diet.
- E. “Drug” means: (a) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (c) articles (other than Food) intended to affect the structure or any function of the body of humans or other animals; and (d) articles intended for use as a component of any article specified in (a), (b), or (c); but does not include devices or their components, parts, or accessories.
- F. “Essentially Equivalent Product” means a product that contains the identical ingredients, except for inactive ingredients (e.g., inactive binders, colors, fillers, excipients), in the same form and dosage, and with the same route of administration (e.g., orally, sublingually), as the Covered Product; provided that the Covered Product may contain additional ingredients if reliable scientific evidence generally accepted by experts in the field indicates that the amount and

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combination of additional ingredients is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.

- G. “Food” means: (a) any article used for food or drink for humans or other animals; (b) chewing gum; and (c) any article used for components of any such article.
- H. “Respondents” means the Corporate Respondent and the Individual Respondent, individually, collectively, or in any combination.
 - 1. “Corporate Respondent” means Kushly Industries LLC, a limited liability company, and its successors and assigns.
 - 2. “Individual Respondent” means Cody Alt.

Provisions**I. Prohibited Representations: Regarding Health-Related Claims Requiring Human Clinical Testing For Substantiation**

IT IS ORDERED that Respondents, Respondents’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the labeling, advertising, promotion, offering for sale, or sale of any Covered Product, must not make, or assist others in making, expressly or by implication, any representation that such Covered Product effectively treats, mitigates, or cures diseases or health conditions including: sleep disorders, including insomnia and narcolepsy; headaches; psychiatric disorders, including depression, bipolar disorder, general anxiety disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder; post-traumatic stress disorder, psychosis, and anorexia nervosa; cancer; multiple sclerosis; chronic drowsiness; Parkinson’s disease; hypertension; Alzheimer’s disease; acne, psoriasis, eczema; arthritis; muscle spasms; pain resulting from endometriosis; and dysmenorrhea, unless the representation is non-misleading, and, at the time of making such representation, they possess and rely upon competent and reliable scientific evidence that substantiates that the representation is true.

For purposes of this Provision, “competent and reliable scientific evidence” must consist of human clinical testing of the Covered Product, or of an Essentially Equivalent Product, that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. Such testing must be: (1) randomized, double-blind, and placebo-controlled; and (2) conducted by researchers qualified by training and experience to conduct such testing. In addition, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as described in the Provision entitled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission. Persons covered by this

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Section have the burden of proving that a product satisfies the definition of Essentially Equivalent Product.

II. Prohibited Representations: Other Health-Related Claims

IT IS FURTHER ORDERED that Respondents, Respondents' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the labeling, advertising, promotion, offering for sale, or sale of any Covered Product must not make, or assist others in making, any representation, other than representations covered under the Provision of this Order entitled Prohibited Representations: Regarding Health-Related Claims Requiring Human Clinical Testing For Substantiation, expressly or by implication, about the health benefits, performance, or efficacy, safety, or side effects of such Covered Product, unless the representation is non-misleading, including that, at the time such representation is made, they possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

For purposes of this Provision, "competent and reliable scientific evidence" means tests, analyses, research, or studies that (1) have been conducted and evaluated in an objective manner by experts in the relevant disease, condition, or function to which the representation relates; (2) that are generally accepted by such experts to yield accurate and reliable results; and (3) that are randomized, double-blind, and placebo-controlled human clinical testing of the Covered Product or of an Essentially Equivalent Product, when such experts would generally require such human clinical testing to substantiate that the representation is true. In addition, when such tests or studies are human clinical tests or studies, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as described in the Provision of this Order titled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission. Persons covered by this section will have the burden of proving that a product satisfies the definition of an Essentially Equivalent Product.

III. Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies

IT IS FURTHER ORDERED that, with regard to any human clinical test or study ("test") upon which Respondents rely to substantiate any claim covered by this Order, Respondents must secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, including:

- A. All protocols and protocol amendments, reports, articles, write-ups, or other accounts of the results of the test, and drafts of such documents reviewed by the test sponsor or any other person not employed by the research entity;

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- B. All documents referring or relating to recruitment; randomization; instructions, including oral instructions, to participants; and participant compliance;
- C. Documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;
- D. All documents referring or relating to any statistical analysis of any test data, including any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and
- E. All documents referring or relating to the sponsorship of the test, including all communications and contracts between any sponsor and the test's researchers.

Provided, however, the preceding preservation requirement does not apply to a reliably reported test, unless the test was conducted, controlled, or sponsored, in whole or in part by (1) any Respondent; (2) any Respondent's officers, agents, representatives, or employees; (3) any other person or entity in active concert or participation with any Respondent; (4) any person or entity affiliated with or acting on behalf of any Respondent; (5) any supplier of any ingredient contained in the product at issue to any of the foregoing or to the product's manufacturer; or (6) the supplier or manufacturer of such product.

For purposes of this Provision, "reliably reported test" means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

For any test conducted, controlled, or sponsored, in whole or in part, by Respondents, Respondents must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures must be documented in writing and must contain administrative, technical, and physical safeguards appropriate to Respondents' size and complexity, the nature and scope of Respondents' activities, and the sensitivity of the personal information collected from or about the participants.

IV. Prohibited Misrepresentations Regarding Tests, Studies, or Other Research

IT IS FURTHER ORDERED that Respondents, Respondents' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the labeling, advertising, promotion, offering for sale, or sale of any product must not misrepresent, in any manner, expressly or by implication:

- A. that any Covered Product is clinically proven to:

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1. treat, alleviate, or cure chronic pain, multiple sclerosis, anxiety, depression, cancer, sleep disorders, hypertension, Parkinson's disease, Alzheimer's disease, acne, psoriasis, and eczema,
- B. that the performance or benefits of a Covered Product are scientifically or clinically proven or otherwise established; or
- C. the existence, contents, validity, results, conclusions, or interpretations of any test, study, or other research.

V. FDA Approved Claims

IT IS FURTHER ORDERED that nothing in this Order prohibits Respondents, or Respondents' officers, agents, employees, and attorneys, or all other persons in active concert or participation with any of them, from:

- A. For any drug, making a representation that is approved in labeling for such drug under any tentative final or final monograph promulgated by the Food and Drug Administration ("FDA"), or under any new drug application approved by the FDA; and
- B. For any product, making a representation that is specifically authorized in labeling for such product by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990 or authorized under Sections 303-304 of the Food and Drug Administration Modernization Act of 1997.

VI. Monetary Relief

IT IS FURTHER ORDERED that:

- A. Respondents must pay to the Commission \$30,583.14, which Respondents stipulate their undersigned counsel holds in escrow for no purpose other than payment to the Commission.
- B. Such payment must be made within 5 days of the effective date of this Order by electronic fund transfer in accordance with instructions that will be provided by a representative of the Commission.

VII. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

- A. Respondents relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

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- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the Complaint establish all elements necessary to sustain an action by or on behalf of the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Respondents' practices alleged in the Complaint. Any money not used is to be deposited to the U.S. Treasury. Respondents have no right to challenge any activities pursuant to this Provision.
- E. In the event of default on any obligation to make payment under this Order, interest, computed as if pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. In the event such default continues for 10 days beyond the date that payment is due, the entire amount will immediately become due and payable.
- F. Each day of nonpayment is a violation through continuing failure to obey or neglect to obey a final order of the Commission and thus will be deemed a separate offense and violation for which a civil penalty shall accrue.
- G. Respondents acknowledge that their Taxpayer Identification Numbers (Social Security or Employer Identification Numbers), which Respondents have previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VIII. Customer Information

IT IS FURTHER ORDERED that Respondents must directly or indirectly provide sufficient customer information to enable the Commission to efficiently administer consumer redress to all purchasers of Kushly Industries LLC's CBD Products who made purchases from May 26, 2019 through August 27, 2020. If a representative of the Commission requests in writing any information related to redress, Respondents must provide it, in the form prescribed by the Commission representative, within 14 days.

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IX. Notices to Customers

IT IS FURTHER ORDERED that Respondents must notify customers as follows:

- A. Respondents must identify all consumers who purchased Kushly Industries LLC's CBD Products from May 26, 2019 through August 27, 2020 ("eligible customers").
 - 1. Such eligible customers, and their contact information, must be identified to the extent such information is in Respondents' possession, custody or control, including from third parties such as resellers;
 - 2. Eligible customers include those identified at any time, including after Respondents' execution of the Agreement through one year after the issuance date of the Order.
- B. Respondents must notify all identified eligible customers by mailing each a notice:
 - 1. The letter must be in the form shown in Attachment A.
 - 2. The envelope containing the letter must be in the form shown in Attachment B.
 - 3. The mailing of the notification letter must not include any other enclosures.
 - 4. The mailing must be sent by first-class mail, postage prepaid, address correction service requested with forwarding and return postage guaranteed. For any mailings returned as undeliverable, Respondents must use standard address search methodologies such as re-checking Respondents' records and the Postal Service's National Change of Address database and re-mailing to the corrected address within 8 days.
- C. Respondents must notify all eligible customers within 180 days after the issuance date of this Order and any eligible customers identified thereafter within 30 days of their identification.
- D. Respondents must provide a website notice on their website kushly.com and all social media accounts, including Facebook, Instagram, YouTube, TikTok, Pinterest, LinkedIn, Tumblr, SoundCloud, MySpace, and Twitter. Such notice must link to a copy of the Order along with the telephone number and email addresss dedicated to responding to inquiries about redress. Respondents must respond promptly and accurately to such inquiries, including: 1) whether the consumer is an eligible customer; 2) and if so, the redress required by the Order and steps taken for that customer. The notice must be posted not later than 3 days

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after the effective date of the Order and for at least 1 year after the redress period ends.

- E. Respondents must report on their notification program under penalty of perjury:
1. Respondents must submit a report at the conclusion of the program summarizing their compliance to date, including the total number of eligible customers identified and notified.
 2. If a representative of the Commission requests any information regarding the program, including any of the underlying customer data, Respondents must submit it within 10 days of the request.
 3. Failure to provide required notices or any requested information will be treated as a continuing failure to obey this Order.

X. Notice to Wholesalers, Affiliates, and Other Distributors

IT IS FURTHER ORDERED that within 30 days of the effective date of this Order, Respondents must notify all affiliates or other resellers who either (1) purchased CBD Products from Respondents or (2) sold, distributed, or promoted CBD Products on behalf of Respondents by sending each by first-class mail, postage paid and return receipt requested, or by courier service with signature proof of delivery, the notification letter attached as Attachment A. Respondents must include a copy of this Order, but no other document or enclosure.

XI. Acknowledgments of the Order

IT IS FURTHER ORDERED that Respondents obtain acknowledgments of receipt of this Order:

- A. Each Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 5 years after the issuance date of this Order, the Individual Respondent for any business that such Respondent, individually or collectively with Corporate Respondent, is the majority owner or controls directly or indirectly, and the Corporate Respondent, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for labeling, advertising, marketing, promotion, offering for sale, or sale of CBD or CBG Products and all agents and representatives who participate in labeling, advertising, marketing, promotion, offering for sale, or sale of CBD or CBG Products; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices. Delivery must occur within 10 days after the

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effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

- C. From each individual or entity to which a Respondent delivered a copy of this Order, that Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XII. Compliance Reports and Notices

IT IS FURTHER ORDERED that Respondents make timely submissions to the Commission:

- A. One year after the issuance date of this Order, each Respondent must submit a compliance report, sworn under penalty of perjury, in which:
1. Each Respondent must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission, may use to communicate with Respondent; (b) identify all of that Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of Corporate Respondent (which the Individual Respondent must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Respondent is in compliance with each Provision of this Order, including a discussion of all of the changes the Respondent made to comply with the Order; and (e) provide a copy of each Acknowledgment of the Order obtained pursuant to this Order, unless previously submitted to the Commission.
 2. Additionally, the Individual Respondent must: (a) identify all his telephone numbers and all his physical, postal, email and Internet addresses, including all residences; (b) identify all his business activities, including any business for which such Respondent performs services whether as an employee or otherwise and any entity in which such Respondent has any ownership interest; and (c) describe in detail such Respondent's involvement in each such business activity, including title, role, responsibilities, participation, authority, control, and any ownership.
- B. For 10 years after the issuance date of this Order, each Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
1. Each Respondent must submit notice of any change in: (a) any designated point of contact; or (b) the structure of the Corporate Respondent or any

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entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, the Individual Respondent must submit notice of any change in: (a) name, including alias or fictitious name, or residence address; or (b) title or role in any business activity, including (i) any business for which such Respondent performs services whether as an employee or otherwise and (ii) any entity in which such Respondent has any ownership interest and over which Respondents have direct or indirect control. For each such business activity, also identify its name, physical address, and any Internet address.
- C. Each Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Respondent within 14 days of its filing.
- D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.
- E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re Kushly Industries LLC.

XIII. Recordkeeping

IT IS FURTHER ORDERED that Respondents must create certain records for 10 years after the issuance date of the Order and retain each such record for 5 years. Specifically, Corporate Respondent and the Individual Respondent for any business that such Respondent, individually or collectively with any other Respondent, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;
- B. personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person’s: name;

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addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

- C. copies or records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. a copy of each unique advertisement or other marketing material making a representation subject to this Order.
- E. for 5 years from the date of the last dissemination of any representation covered by this Order:
 - 1. all materials that were relied upon in making the representation; and
 - 2. all tests, studies, analysis, demonstrations, other research or other evidence in Respondent's possession, custody, or control that contradicts, qualifies, or otherwise calls into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations;
- F. for 5 years from the date received, copies of all subpoenas and other communications with law enforcement, if such communication relate to Respondents' compliance with this Order;
- G. for 5 years from the date created or received, all records, whether prepared by or on behalf of Respondents, that demonstrate non-compliance OR tend to show any lack of compliance by Respondents with this Order; and
- H. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

XIV. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondents' compliance with this Order:

- A. Within 10 days of receipt of a written request from a representative of the Commission, each Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.
- B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with each Respondent. Respondents must permit representatives of the Commission to interview anyone affiliated with any

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Respondent who has agreed to such an interview. The interviewee may have counsel present.

- C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondents or any individual or entity affiliated with Respondents, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1.
- D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning the Individual Respondent, pursuant to Section 604(2) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(2).

XV. Order Effective Dates

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its publication on the Commission's website (ftc.gov) as a final order. This Order will terminate 20 years from the date of its issuance (which date may be stated at the end of this Order, near the Commission's seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Provision in this Order that terminates in less than 20 years;
- B. This Order's application to any Respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that the Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

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ATTACHMENT A TO THE ORDER

CLAIMS ABOUT PRODUCTS CONTAINING CBD

In the Matter of Kushly Industries et al.

<Date>

Subject: Kushly Industries LLC d/b/a Kushly CBD Products

<Name of customer>

<mailing address of customer
including zip code>

Dear <Name of customer>:

Our records show that you bought CBD products from Kushly between May 26, 2019 and August 27, 2020. The Federal Trade Commission (FTC) sued us for deceptive or false advertising of those products.

- The FTC says **we do not have scientific evidence** that our CBD products can treat or cure diseases and health conditions including
 - sleep disorders like insomnia and narcolepsy;
 - psychiatric disorders like depression, bipolar disorder, post-traumatic stress disorder, psychosis, and anorexia nervosa;
 - diseases and conditions like cancer, multiple sclerosis, Parkinson's disease, Alzheimer's disease, and hypertension;
 - skin conditions like acne, psoriasis, and eczema; and
 - pain associated with arthritis, endometriosis, and menstruation (dysmenorrhea).
- The FTC says **we do not have scientific evidence** that our CBD products can help muscles heal fast.
- The FTC says studies **do not prove** that our CBD products treat or cure any of the diseases and health conditions listed above.

As part of a settlement with the FTC, we agreed not to make those misleading claims in the future.

What you should know about CBD products

Analysis to Aid Public Comment

CBD products could be dangerous if you take them with other medicines or at a high dose. They also could interfere with other medications you're taking or treatments you're getting. Talk to your doctor before you use CBD products. Learn more at [ftc.gov/miraclehealth](https://www.ftc.gov/miraclehealth).

Sincerely,
[signature]

Cody Alt
CEO
Kushly Industries LLC

ATTACHMENT B TO THE ORDER – ENVELOPE TEMPLATE

The envelope for the notification letter must be in the following form, with the underlined text completed as directed:

*[Identify Respondent
Street Address
City, State and Zip Code]*

FORWARDING AND RETURN POSTAGE GUARANTEED ADDRESS CORRECTION
SERVICE REQUESTED

[name and
mailing address of customer,
including zip code]

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a consent order from Kushly Industries LLC and Cody Alt, individually and as an officer of Kushly Industries LLC ("Respondents"). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received, and will

Analysis to Aid Public Comment

decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the Respondents' advertising of products containing cannabidiol ("CBD Products"). The complaint alleges that Respondents violated Sections 5(a) and 12 of the FTC Act by disseminating false and unsubstantiated advertisements that claimed that: (1) CBD Products effectively treat, mitigate, or cure diseases or health conditions including: sleep disorders, including insomnia and narcolepsy; psychiatric disorders, including depression, bipolar disorder, post-traumatic stress disorder, psychosis, and anorexia nervosa; cancer; multiple sclerosis; Parkinson's disease; hypertension; Alzheimer's disease; acne, psoriasis, eczema; arthritis; muscle spasms; pain resulting from endometriosis; and dysmenorrhea; and (2) studies or scientific research prove that CBD Products effectively treat, mitigate, or cure multiple sclerosis, general anxiety disorder, post-traumatic stress disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder, depression, cancer, sleep disorders, hypertension, Parkinson's disease, Alzheimer's disease, acne, psoriasis, and eczema, and improve sleep.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct. The product coverage would apply to any dietary supplement, drug, or food Respondents sell or market, including CBD Products.

Part I prohibits Respondents from making any representation about the efficacy of any covered product, including that such product effectively treats, mitigates, or cures diseases or health conditions including: sleep disorders, including insomnia and narcolepsy; headaches; psychiatric disorders, including depression, bipolar disorder, general anxiety disorder, panic disorder, obsessive-compulsive disorder and social anxiety disorder; post-traumatic stress disorder, psychosis, and anorexia nervosa; cancer; multiple sclerosis; chronic drowsiness; Parkinson's disease; hypertension; Alzheimer's disease; acne, psoriasis, eczema; arthritis; muscle spasms; pain resulting from endometriosis; and dysmenorrhea, unless the representation is non-misleading, including that, at the time such representation is made, they possess and rely upon competent and reliable scientific evidence that substantiates that the representation is true.

For purposes of Part I, competent and reliable scientific evidence must consist of human clinical testing of the covered product, or of an essentially equivalent product, that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. Such testing must be: (1) randomized, double-blind, and placebo-controlled; and (2) conducted by researchers qualified by training and experience to conduct such testing.

Part II prohibits Respondents from making any representation, other than representations covered under Part I, about the health benefits, performance, efficacy, safety or side effects of any covered product, unless the representation is non-misleading, including that, at the time such representation is made, they possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted by experts in the

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relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

For purposes of Part II, “competent and reliable scientific evidence” means tests, analyses, research, or studies that (1) have been conducted and evaluated in an objective manner by experts in the relevant disease, condition, or function to which the representation relates; (2) that are generally accepted by such experts to yield accurate and reliable results; and (3) that are randomized, double-blind, and placebo-controlled human clinical testing of the covered product, or of an essentially equivalent product, when such experts would generally require such human clinical testing to substantiate that the representation is true.

Part III requires that, with regard to any human clinical test or study (“test”) upon which Respondents rely to substantiate any claim covered by the order, Respondents must secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of a test.

Part IV prohibits Respondents from misrepresenting: (1) that any covered product is clinically proven to treat, alleviate, or cure chronic pain, multiple sclerosis, anxiety, depression, cancer, sleep disorders, hypertension, Parkinson’s disease, Alzheimer’s disease, acne, psoriasis, and eczema; (2) that the performance or benefits of a covered product are scientifically or clinically proven or otherwise established; or (3) the existence, contents, validity, results, conclusions, or interpretations of any test, study, or other research.

Part V provides Respondents a safe harbor for making claims approved by the Food and Drug Administration.

Parts VI and **VII** require Respondents to pay to the Commission \$30,583.14 and describes the procedures and legal rights related to that payment.

Part VIII, IX, and X requires Respondents to provide customer information to the Commission and to provide notice of the order to customers, affiliates, and other resellers.

Part XI requires Respondents to submit an acknowledgement of receipt of the order, and for the individual Respondent to serve the order on certain individuals, including all officers or directors of any business the individual Respondent controls and employees having managerial responsibilities for conduct related to the subject matter of the order, and to obtain acknowledgements from each individual or entity to which a Respondent has delivered a copy of the order.

Part XII requires Respondents to file compliance reports with the Commission and to notify the Commission of bankruptcy filings or changes in corporate structure that might affect compliance obligations.

Analysis to Aid Public Comment

Part XIII contains recordkeeping requirements for accounting records, personnel records, consumer correspondence, advertising and marketing materials, and claim substantiation, as well as all records necessary to demonstrate compliance with the order.

Part XIV contains other requirements related to the Commission's monitoring of Respondents' order compliance.

Part XV provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.

INTERLOCUTORY, MODIFYING, VACATING, AND MISCELLANEOUS ORDERS

IN THE MATTER OF

LOUISIANA REAL ESTATE APPRAISERS BOARD

Docket No. 9374. Order, February 12, 2021

Order granting Complaint Counsel's motion to lift the stay imposed on this proceeding and order that the evidentiary hearing commence ten weeks after issuance of the order lifting the stay.

ORDER LIFTING STAY AND RESUMING ADMINISTRATIVE PROCEEDINGS

Complaint Counsel have moved that the Commission lift a stay that it has imposed on this proceeding and order that the evidentiary hearing commence ten weeks after issuance of the order lifting the stay. Complaint Counsel's Motion to Lift the Stay and Set Hearing Date (Dec. 18, 2020), *supplemented by* Supplement to Complaint Counsel's Motion to Lift the Stay and Set Hearing Date (Jan. 19, 2021). Respondent Louisiana Real Estate Appraisers Board ("Respondent" or "the Board") does not oppose the lifting of the stay, but argues that in light of concerns raised by the COVID-19 pandemic, the evidentiary hearing should commence no sooner than August 16, 2021. Respondent Louisiana Real Estate Appraisers Board's Opposition in Part to Complaint Counsel's Motion to Lift the Stay and Set Hearing Date (Dec. 28, 2020) ("Response").¹ As explained below, we have determined to grant Complaint Counsel's motion.

Background

On April 11, 2019, the Board filed a complaint with the United States District Court for the Middle District of Louisiana, seeking, *inter alia*, a declaration that the Commission had violated the Administrative Procedure Act in issuing an Opinion and Order² denying Respondent's motion to dismiss the complaint in this proceeding and dismissing Respondent's third and ninth affirmative defenses. The Board asked the court to hold unlawful and set aside the Commission's April 10, 2018 Order and to order the Commission to dismiss its administrative complaint. On July 29, 2019, the District Court issued an order staying all pending activity in this administrative proceeding.³ In recognition of the District Court's action,

¹ Respondent, however, repeatedly suggests that a later trial date may ultimately prove necessary. Response at 3 n.3, 10. According to Respondent, "no in-person administrative proceeding should take place until all participants, including the Administrative Law Judge, witnesses, counsel, and staff, are vaccinated against COVID-19." *Id.* at 10.

² *La. Real Estate Appraisers Bd.*, Docket No. 9374, Opinion and Order of the Commission (Apr. 10, 2018), https://www.ftc.gov/system/files/documents/cases/d09374_opinion_and_order_of_the_commission_04102018_redacted_public_version.pdf.

³ *La. Real Estate Appraisers Bd. v. United States FTC*, 2019 WL 3412162 (M.D. La. July 29, 2019).