UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION, Plaintiff, v. **ROCA LABS, INC.**, a corporation; **ROCA LABS NUTRACEUTICAL USA, INC.**, a corporation; **DON JURAVIN**, individually and as an officer of Roca Labs, Inc. and Roca Labs Nutraceutical USA, Inc.; and **GEORGE WHITING**, individually and as an officer of Roca Labs, Inc. and Roca Labs Nutraceutical USA, Inc. Defendants.	Civ. No. 8:15-cv-02231-MSS-TBM

DEFENDANT GEORGE WHITING'S ANSWER AND AFFIRMATIVE DEFENSES

Defendant, George Whiting ("Whiting"), by and through the undersigned counsel, hereby files his Answer and Affirmative Defenses to Plaintiff's, Federal Trade Commission ("FTC") Complaint and states as follows:

1. Admitted that this is an action for alleged violations of Section 13(b) of the Federal Trade Commission Act ("FTC Act") and that the FTC is seeking a variety of remedies. Otherwise denied.

2. Admitted.

3. Admitted.

4. The allegations in paragraph 4 are legal conclusions to which no response is required. Otherwise denied.

5. The allegations in paragraph 5 are legal conclusions to which no response is required. Otherwise denied.

6. Whiting admits that Roca Labs, Inc. ("Roca Labs") is a corporation does business using the addresses referenced in paragraph 6. Otherwise without knowledge; therefore denied.

7. Without knowledge; therefore denied.

8. Whiting admits that Don Juravin ("Juravin") controlled the business activities of Roca Labs and Roca Labs Nutraceutical USA, Inc. ("Roca USA") at all relevant times. Whiting admits that he performed bookkeeping services for Roca Labs until on or about 2013. Otherwise without knowledge; therefore denied.

9. Whiting admits that he is the nominative president, secretary, treasurer and director of Roca Labs, Roca USA and Zero Calorie Labs, Inc. ("Zero") Whiting denies that he has had substantial involvement in the operation of Roca Labs, Roca USA and Zero since at least 2013. Otherwise denied.

10. The allegations in paragraph 10 are legal conclusions to which no response is required. Whiting denies formulating, directing, controlling the acts and practices of Roca Labs and Roca USA. Otherwise Whiting is without knowledge as to the remaining allegations; therefore denied.

11. The allegations in paragraph 11 are legal conclusions to which no response is required. Otherwise denied.

12. Whiting admits that Roca Labs admits that it marketed and sold the Roca Labs Formula and Anti-Cravings, which are dietary supplements marketed as weight loss

products. Whiting is without knowledge with regard to the remaining allegations in paragraph 12 and therefore denies same.

13. Without knowledge; therefore denied.

14. Without knowledge; therefore denied.

15. Without knowledge; therefore denied.

16. Whiting denies the allegations in paragraph 16.

17. Without knowledge; therefore denied.

18. Without knowledge; therefore denied.

19. Without knowledge; therefore denied.

20. Without knowledge; therefore denied.

21. Without knowledge; therefore denied.

22. Without knowledge; therefore denied.

23. Without knowledge; therefore denied.

24. Without knowledge; therefore denied.

25. Without knowledge; therefore denied.

26. Without knowledge; therefore denied.

27. Without knowledge; therefore denied.

28. Without knowledge; therefore denied.

29. Without knowledge; therefore denied.

30. Without knowledge; therefore denied.

31. Without knowledge; therefore denied.

32. Without knowledge; therefore denied.

33. Without knowledge; therefore denied.

34. Without knowledge; therefore denied.

35. Without knowledge; therefore denied.

36. Without knowledge; therefore denied.

37. Without knowledge; therefore denied.

38. Without knowledge; therefore denied.

39. Without knowledge; therefore denied.

40. Without knowledge; therefore denied.

41. Without knowledge; therefore denied.

42. Without knowledge; therefore denied.

43. Without knowledge; therefore denied.

44. Without knowledge; therefore denied.

45. Without knowledge; therefore denied.

46. Without knowledge; therefore denied.

47. Without knowledge; therefore denied.

48. Without knowledge; therefore denied.

49. Without knowledge; therefore denied.

50. Without knowledge; therefore denied.

51. Without knowledge; therefore denied.

52. Without knowledge; therefore denied.

53. Without knowledge; therefore denied.

54. The allegations in paragraph 54 are legal conclusions to which no response is required. Otherwise denied.

55. The allegations in paragraph 55 are legal conclusions to which no response is required. Otherwise denied.

56. The allegations in paragraph 56 are legal conclusions to which no response is required. Otherwise denied.

57. The allegations in paragraph 57 are legal conclusions to which no response is required. Otherwise denied.

Count I
Deceptive Weight-Loss Claims

58. Whiting restates and re-alleges his responses to paragraphs 12-40 as if set forth fully herein and denies the remaining allegations in paragraph 58.

59. Denied.

60. Denied.

Count II
False Establishment Claim

61. Whiting restates and re-alleges his responses to paragraphs 12-40 as if set forth fully herein and denies the remaining allegations in paragraph 61.

62. Denied.

63. Denied.

Count III
Unfair Use of Non-Disparagement Provisions

64. Whiting restates and re-alleges his responses to paragraphs 12-42 and 44-52 as if set forth fully herein. Otherwise denied.

65. Denied.

66. Denied.

Count IV
Misrepresentations About Gastric Bypass.me

67. Whiting restates and re-alleges his responses to paragraphs 36-37 as if set forth fully herein. Otherwise denied.

68. Without knowledge; therefore denied.

69. Denied.

Count V
Failure to Disclose Material Connections

70. Whiting restates and re-alleges his responses to paragraphs 31-37 as if set forth fully herein. Otherwise denied.

71. Without knowledge; therefore denied.

72. Denied.

Count VI
Deceptive Privacy Claim

73. Whiting restates and re-alleges his responses to paragraphs 38-42 as if set forth fully herein. Otherwise denied.

74. Without knowledge; therefore denied.

75. Denied.

Count VII
Deceptive Discount Claim

76. Whiting restates and re-alleges his responses to paragraphs 44-53 as if set forth fully herein. Otherwise denied.

77. Without knowledge; therefore denied.

78. Denied.

Consumer Injury

79. Denied.

This Court's Power To Grant Relief

80. The allegations in paragraph 80 are legal conclusions to which no response is required. Otherwise denied.

Prayer for Relief

81. Whiting denies that the FTC is entitled to any relief and requests that this Court deny all relief requested in this paragraph 81, including subparts A, B and C.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The FTC has failed to state a claim upon which relief may be granted.

Second Affirmative Defense

The FTC failed to take any action for nearly five years, and therefore its claims are barred by laches.

Third Affirmative Defense

Damages, if any, were caused by the Plaintiff's failure to act.

Fourth Affirmative Defense

Plaintiff's claim for Unfair Use of Non-Disparagement Provisions fails because it is unsupported by existing law.

Fifth Affirmative Defense

Plaintiff's claim for Failure to Disclose Material Connections fails because there is no legal requirement to disclose that customers are rewarded for providing testimonials showing successful use of the Roca Labs products.

Sixth Affirmative Defense

Plaintiff's claims are barred because it has not and cannot show that consumers sustained any injury or harm.

Seventh Affirmative Defense

Plaintiff's claims fail because Roca Labs actions did not cause injury to consumers.

Eighth Affirmative Defense

Plaintiff's claims are barred by 15 U.S.C. § 57b(d).

Reservation of Right To Add Affirmative Defenses

Whiting reserves the right to amend to add additional affirmative defenses as they become apparent.

WHEREFORE, Whiting denies that the FTC is entitled to any relief and respectfully requests that this Court find in his favor and against the Federal Trade Commission, deny the FTC's prayer for relief, dismiss this action with prejudice and award him any additional relief as this Court may deem just and proper.

DATED: October 19, 2015.

Respectfully submitted,

s/Suzette Marteny
Suzette Marteny
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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will electronically serve copies on all counsel of record. I further certify that I e-mailed the foregoing to counsel for Plaintiff, Carl H. Settlemyer csettlemyer@ftc.gov and Paul Bryan Spelman pspelman@ftc.gov.

s/Suzette Marteny
Attorney