UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. **ERIC ANTHONY NEPUTE**, et al., Defendants.	Case No.: 4:21-CV-437 RLW

AGREED ORDER RESOLVING
UNITED STATES' MOTION FOR CIVIL CONTEMPT

The parties appeared before this Court for a hearing to show cause why Defendant Dr. Eric Nepute should not be held in civil contempt on December 19, 2022. See ECF No. 50 & 133. After conferring that day, the parties reached an agreement to resolve that motion without the need for an evidentiary hearing, and the parties respectfully and jointly submit this agreed order to resolve the United States' motion for civil contempt.

THEREFORE, IT IS ORDERED as follows:

I. Defendant Nepute shall use his best efforts to remove any recording of the daily radio show known as "Real Talk with Dr. Eric Nepute" airing on KRTK (93.3 FM) and affiliated stations (the "Radio Show") that contains a statement prohibited by the Consent Order when made in connection with the advertising of Wellness Warrior Products, ECF No. 15, from any website or other media controlled by Quickwork,

Nepute, or the Radio Station,[1] which was identified as unlawful in the United States' motion to show cause or motion for summary judgment. This includes, but is not limited to, the February 4, 2022, February 7, 2022, February 15, 2022, February 16, 2022, February 17, 2022, and February 21, 2022 Radio Show recordings.

II. The United States shall notify Defendant Nepute of any other Radio Show recordings that contain a prohibited statement in connection with the advertising of Wellness Warrior Products and shall ask Nepute to use his best efforts to remove such statements from any website or other media controlled by Quickwork, Nepute, or the Radio Station. Nepute shall have an opportunity to contest the United States' designation of any such statements as being prohibited by the Consent Order, and the parties shall try to resolve any dispute without judicial intervention. Should the parties be unable to resolve any such dispute, the United States may raise the dispute with the Court.

III. Within ten days of the date of entry of this Order, Defendant Nepute shall serve the United States with a declaration made under penalty of perjury, 28 U.S.C. § 1746, confirming that such recordings covered in Section I have been removed from any website or other media controlled by Quickwork, Nepute, or the Radio Station, and Nepute shall detail in that declaration the best efforts that he has taken to have those prohibited statements removed. If needed, the United States may file the declaration with the Court for compliance purposes.

IV. In connection with making claims prohibited by the Consent Order, ECF No. 15, Defendant Nepute shall not wear gear or logos, or reference, "Wellness Warrior,"

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[1]This includes, but is not limited to, the Real Talk 93.3 FM Website, Facebook, and CloutHub accounts.

freevitamindeals.com, or any other website or media belonging to Quickwork or Nepute that sells Wellness Warrior products, and he shall not wear such gear or logos in pictures that appear in images on the website that posts the Radio Show.

V. Beginning ten days after the date of the Court's order, Defendant Nepute shall pay to the Court a coercive fine of $500 each day if the violative content covered by this order has not been removed from all websites or other media controlled by Quickwork, Nepute, or the Radio Station, or if Nepute has not filed with the Court a declaration(s) signed by him that demonstrates that he has made best efforts to cause the Radio Station or other media to remove such violative content and identifying all recordings that are still publicly available and all websites or other media on which such recordings remain. All such recordings must be identified by name, date, any website(s) on which they are posted, and the URL of that website.

VI. Defendant Nepute shall pay to the Court a coercive fine for any future violations of the Consent Order. The first future violation shall be subject to a $500 coercive fine. For each additional violation thereafter, the fine shall increase by $500 per violation (e.g., the fine for the second violation shall be $1,000, and the fine for the third violation shall be $1,500).

VII. For each and any future violation, including those that the United States notifies him about pursuant to Section II, Defendant Nepute shall (i) exercise best efforts to cause the removal of any recordings containing violative content that are publicly available in accordance with Sections I and II; and (ii) within ten days of the Court's order adjudging violations, cause to be filed a declaration with the Court that complies with Section I and II. Defendant Nepute shall pay to the Court a daily coercive fine in the

amount calculated in accordance with Section VI, unless Nepute has taken one of the three following actions: (i) removed all violative content from all media controlled by Nepute, his agents, officers, employees, all other persons and entities in active concert or participation with him, or the Radio Station; (ii) provided to the United States a declaration signed by Nepute and demonstrating that he has made best efforts to remove or cause the removal of all violative content and identifying all such efforts and content; or (iii) provided the United States with a written statement that disputes in detail the designation of certain statements that the United States has identified as prohibited by this order. All content referenced in this paragraph must be identified by name, date, any website(s) on which it is posted, and the URL of that website.

VIII. Nepute agrees for purposes of resolving the contempt motion that the phrase "in connection with the advertising of Wellness Warrior Products" includes wearing Wellness Warrior gear, references to freevitamindeals.com, and references to any other website or media belonging to Quickwork or Nepute that sells Wellness Warrior products.

IX. Neither the United States nor Defendant Nepute admits liability or makes any concession in this Order, and this Order will not be admissible in any filed document or judicial proceeding except to enforce the terms of this Order. The parties have made this agreement solely to resolve the United States' civil contempt motion that was noticed for December 19, 2022.

SO AGREED:

SAYLER FLEMING
United States Attorney
Eastern District of Missouri

SUZANNE J. MOORE MO#45321
Assistant United States Attorney
Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street, 20th Floor
St. Louis, MO 63102
Tel: (314)539-2200
Fax: (314)539-2196
Email: suzanne.moore@usdoj.gov

FOR THE UNITED STATES OF AMERICA:

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

ARUN G. RAO
Deputy Assistant Attorney General

AMANDA LISKAMM
Acting Director
Consumer Protection Branch

LISA K. HSIAO
Assistant Director
Consumer Protection Branch

/s/ Zachary L. Cowan
BEN CORNFELD 1048311(DC)
BRANDON ROBERS 1112150055(MD)
ZACHARY L. COWAN 53432(NC)
ELLEN BOWDEN MCINTYRE 23133(TN)
Trial Attorneys
Consumer Protection Branch
U.S. Department of Justice
Civil Division
450 5th Street, N.W.
Washington, D.C. 20530
Tel: 202-598-7276 (Cornfeld)
Tel: 202-305-2023 (Robers)
Tel: 202-353-7728 (Cowan)
Tel: 202-451-7731 (McIntyre)
Fax: 202-514-8742
Benjamin.A.Cornfeld2@usdoj.gov
Brandon.Robers@usdoj.gov
Zachary.Cowan@usdoj.gov
Ellen.Bowden.McIntyre@usdoj.gov

Counsel for United States

FOR DEFENDANT ERIC NEPUTE:

MCCARTHY, LEONARD & KAEMMERER, L.C. by:

/s/ S. Jay Dobbs
BRIAN E. MCGOVERN, #34677
S. JAY DOBBS, #40859
BRYAN M. KAEMMERER, #52998
825 Maryville Centre Dr., Suite 300
St. Louis, Missouri 53107
bmcgovern@mlklaw.com
jdobbs@mlklaw.com
bkaemerer@mlklaw.com

Counsel for Eric Nepute

DocuSigned by:

ERIC NEPUTE

On behalf of himself

IT IS SO ORDERED.

DATED this 19th of January, 2023.

RONNIE L. WHITE
UNITED STATES DISTRICT COURT JUDGE