

1 WILLIAM E. KOVACIC
General Counsel

2 JANET M. EVANS
3 FEDERAL TRADE COMMISSION
JE 2404
4 600 Pennsylvania Ave., N.W.
Mail Drop S-4002
5 Washington, D.C. 20580
Tel: (202) 326-2125
6 Fax: (202) 326-3259

7 **LOCAL COUNSEL**
RAY MCKOWN
8 FEDERAL TRADE COMMISSION
California Bar # 150975
9 10877 Wilshire Boulevard, Suite 700
Los Angeles, CA 90024
10 Tel: (310) 824-4325
Fax: (310) 824-4380
11 Attorneys for Plaintiff,
FEDERAL TRADE COMMISSION

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
WESTERN DIVISION

14	FEDERAL TRADE COMMISSION,)	Hon.
15	Plaintiff,)	
16	v.)	Civil Action No.
17)	[Proposed]
18	VITAL DYNAMICS, INC. d/b/a ISIS,)	STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND SETTLEMENT OF CLAIMS FOR MONETARY RELIEF
19	GEOFFREY V. KNIGHT,)	
20	MARK D. BERMAN, and)	
21	ALLEN SMITH,)	
22	Defendants.)	

23 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) filed a
24 Complaint for permanent injunction and other relief against Vital Dynamics, Inc.,
25 Geoffrey V. Knight, Mark D. Berman, and Allen Smith, pursuant to Section 13(b) of
26 the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). Defendants
27 deny the allegations in the Complaint, except jurisdictional facts, but are willing to
28

1 agree to the entry of the following Stipulated Final Order for Permanent Injunction
2 and Settlement of Claims for Monetary Relief (“Order”).

3 The Commission and Defendants have stipulated to the entry of the following
4 Order in settlement of the Commission's Complaint against Defendants. The Court,
5 being advised in the premises, finds:

6 **FINDINGS**

7 1. This Court has jurisdiction over the subject matter of this case and
8 jurisdiction over all parties. Venue in the Central District of California is
9 proper.

10 2. The Complaint states a claim upon which relief can be granted, and the Com-
11 mission has the authority to seek the relief it has requested.

12 3. The activities of Defendants are in or affecting commerce, as defined in 15
13 U.S.C. § 44.

14 4. On September 24, 2002, Defendant Geoffrey V. Knight filed a voluntary
15 petition for relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C. §§ 101
16 et seq., in the United States Bankruptcy Court for the Central District of
17 California, Case No. SV 02-18543-KL (“Bankruptcy Case”). Amy L. Goldman
18 was appointed the Chapter 7 trustee for Defendant Knight (“Bankruptcy
19 Trustee”). The Commission’s action against Defendant Knight is not stayed
20 by 11 U.S.C. § 362(a) because it is an exercise of the Commission’s police or
21 regulatory power as a governmental unit pursuant to 11 U.S.C. § 362(b)(4) and
22 thus falls within an exception to the automatic stay.

23 5. Defendants waive all rights to seek judicial review or otherwise challenge or
24 contest the validity of this Order. Defendants also waive any claims that they
25 may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412,
26 concerning the prosecution of this action to the date of this Order.

27 6. This action and the relief awarded herein are in addition to, and not in lieu of,
28 other remedies as may be provided by law.

1 7. Each party shall bear its own costs and attorneys' fees.

2 8. Entry of this Order is in the public interest.

3 9. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this
4 Order are binding upon Defendants, and their officers, agents, servants,
5 employees and all other persons or entities in active concern or participation
6 with them, who receive actual notice of this Order by personal service or
7 otherwise.

8 10. This Consent Decree resolves only claims against the named Defendants and
9 does not preclude the United States or the Commission from initiating further
10 action or seeking any remedy against any other persons, including without
11 limitation persons who may be subject to portions of this Consent Decree by
12 virtue of actions taken in concert or participation with Defendants and persons
13 in any type of indemnification or contractual relationship with Defendants.

14 **DEFINITIONS**

15 For purposes of this Order, the following definitions shall apply:

16 1. Unless otherwise specified, "Defendants" shall mean:

- 17 A. Vital Dynamics, Inc. ("VDI"), a corporation, its divisions and
18 subsidiaries, its successors and assigns and its officers, agents,
19 representatives and employees;
- 20 B. Geoffrey V. Knight, individually and in his capacity as a director or
21 officer of VDI;
- 22 C. Mark D. Berman, individually and in his capacity as a director or officer
23 of VDI; and
- 24 D. Allen Smith, individually and in his capacity as a director or officer of
25 VDI.

26 2. "Isis product" shall mean the "Isis Breast Enhancement Herbal Supplement,"
27 the "Isis Breast Enhancement Herbal Cream," and any substantially similar
28 product containing one or more of the ingredients in the current Isis products.

1 3. “Competent and reliable scientific evidence” shall mean tests, analyses,
2 research, studies, or other evidence based on the expertise of professionals in
3 the relevant area, that has been conducted and evaluated in an objective manner
4 by persons qualified to do so, using procedures generally accepted in the
5 profession to yield accurate and reliable results.

6 4. “Food,” “drug,” “device,” and “cosmetic,” shall have the meaning defined in
7 Section 15 of the FTC Act, 15 U.S.C. Section 55.

8 5. “Covered product or service” means any dietary supplement, food, drug,
9 cosmetic, or device, or any service purporting to provide health, cosmetic, or
10 physical enhancement service.

11 6. “Commerce” shall mean as defined in Section 4 of the Federal Trade
12 Commission Act, 15 U.S.C. Section 44.

13 7. “Endorsement” shall mean as defined in 16 C.F.R. § 255.0(b).

14 8. “Employment” shall mean any affiliation with any business, non-profit, or
15 government entity, including the performance of services as an officer,
16 owner, manager, supervisor, employee, consultant, or independent contractor;
17 and “Employer” shall mean any and all individuals or entities for whom any
18 Defendant performs services as an employee, consultant, or independent
19 contractor.

20 9. A requirement that any Defendant “notify the Commission” shall mean that
21 the Defendant shall send the necessary information via first-class mail, costs
22 prepaid, to the Associate Director for Advertising Practices, Federal Trade
23 Commission, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580. Attn:
24 FTC v. Vital Dynamics, Inc. et al., (C.D. Cal.).

25 10. The term “including” in this Order shall mean “without limitation.”

26 11. The terms “and” and “or” in this Order shall be construed conjunctively or
27 disjunctively as necessary, to make the applicable phrase or sentence
28 inclusive rather than exclusive.

1 **I. ISIS PRODUCT CLAIMS**

2 IT IS HEREBY ORDERED that Defendants, directly or through any
3 corporation, subsidiary, division, trade name, or other device, and their officers,
4 agents, servants, employees and all persons or entities in active concert or
5 participation with them who receive actual notice of this Order, by personal service
6 or otherwise, in connection with the manufacturing, labeling, advertising, promotion,
7 offering for sale, sale, or distribution of any Isis product, are hereby permanently
8 restrained and enjoined from making any representation, in any manner, expressly or
9 by implication, that:

- 10 a. Isis will enlarge a woman's breasts, or will enlarge them by any amount or
11 degree;
- 12 b. Isis works by stimulating breast cells to regenerate the growth process;
- 13 c. Isis strengthens connective tissue to lift the breast;
- 14 d. Isis tones and firms the breast;
- 15 e. After six months, most women will maintain their increased breast size without
16 continued use of Isis and the remainder of women will maintain the increase in
17 size by taking Isis on a light maintenance program;
- 18 f. Isis has a high success rate;
- 19 g. Isis is safe;
- 20 h. Isis has no negative side effects; or
- 21 i. Any other representation about the product's benefits, performance, efficacy,
22 safety, or side effects,

23 unless, at the time it is made, Defendants possess and rely upon competent and
24 reliable scientific evidence that substantiates the representation.

25 **II. COVERED PRODUCT CLAIMS**

26 IT IS FURTHER ORDERED that Defendants, directly or through any
27 corporation, subsidiary, division, trade name, or other device, and their officers,
28 agents, servants, employees and all persons or entities in active concert or

1 participation with them who receive actual notice of this Order, by personal service
2 or otherwise, in connection with the manufacturing, labeling, advertising, promotion,
3 offering for sale, sale, or distribution of any covered product or service, are hereby
4 permanently restrained and enjoined from making any representation, in any manner,
5 expressly or by implication, about the benefits, performance, efficacy, safety, or
6 side effects, of any covered product or service unless, at the time the representation
7 is made, they possess and rely upon competent and reliable scientific evidence that
8 substantiates the representation.

9 **III. REFUND TERM CLAIMS**

10 IT IS FURTHER ORDERED that Defendants, directly or through any
11 corporation, subsidiary, division, trade name, or other device, and their officers,
12 agents, servants, employees and all persons or entities in active concert or
13 participation with them who receive actual notice of this Order, by personal service
14 or otherwise, in connection with the advertising, promotion, offering for sale, sale,
15 or distribution of any covered product or service in or affecting commerce, are
16 hereby permanently restrained and enjoined from:

17 a. Misrepresenting, expressly or by implication, that any entity will refund
18 costs associated with purchasing, or any other material aspect or conditions of any
19 entity's refund policy, including, but not limited to, failing to disclose any material
20 condition, qualification, requirement, or limitation to a refund; and

21 b. Failing to provide a full refund of the purchase price of a product,
22 including any shipping costs, insurance, handling, or any other fee or charge paid by
23 the consumer, within seven (7) business days of the Defendants' acceptance, after a
24 reasonable opportunity for inspection, of the merchandise returned by the consumer
25 for a refund pursuant to any money-back guarantee offer made by Defendants;
26 *provided, however,* that Defendants may deduct a service charge or other fees such
27 as shipping and handling costs only if Defendants have disclosed that such
28 deductions will be made, clearly and conspicuously and in close proximity to the

1 money-back guarantee offer made by Defendants.

2

3 **IV. FDA APPROVED CLAIMS**

4 IT IS FURTHER ORDERED that:

5 a. Nothing in this order shall prohibit Defendants from making any representation
6 for any drug that is permitted in labeling for such drug under any tentative final
7 or final standard promulgated by the Food and Drug Administration, or under
8 any new drug application approved by the Food and Drug Administration; and

9 b. Nothing in this order shall prohibit Defendants from making any representation
10 for any product that is specifically permitted in labeling for such product by
11 regulations promulgated by the Food and Drug Administration pursuant to the
12 Nutrition Labeling and Education Act of 1990.

13 **V. MONETARY JUDGMENT AND CONSUMER REDRESS**

14 IT IS FURTHER STIPULATED AND ORDERED that:

15 A. Judgment in the amount of Fifty Thousand Dollars (\$50,000) is hereby entered
16 against the Individual Defendants, as follows: (1) Sixteen Thousand, Six Hundred and
17 Sixty Seven Dollars (\$16,667) against Geoffrey Knight, (2) Sixteen Thousand, Six
18 Hundred and Sixty Seven Dollars (\$16,667) against Mark Berman, and (3) Sixteen
19 thousand, Six Hundred and Sixty Six Dollars (\$16,666) against Allen Smith.

20 Provided, that this judgment shall be subject to the conditions set forth in
21 Paragraphs B and C of this Part V below. Defendants Berman and Smith shall make
22 the required payment of Thirty Three Thousand, Three Hundred and Thirty Three
23 Dollars (\$33,333) in U.S. currency by wire transfer in accord with directions
24 provided by the Commission no later than twenty (20) business days after entry of
25 this Order. By signing this Order, the Defendants relinquish all dominion, control,
26 and title to the monies transferred to the FTC, and agree that all legal and equitable
27 title to said monies is vested in the Commission, for use according to the terms of
28 this order. Defendants shall make no claim to or demand for the return of the funds,

1 directly or indirectly, through counsel or otherwise.

2 B. All funds paid pursuant to this Order shall be deposited into a fund administered
3 by the Commission or its agent to be used for equitable relief, including but not
4 limited to consumer redress, and any attendant expenses for the administration of
5 such equitable relief. In the event that direct redress to consumers is wholly or
6 partially impracticable or funds remain after redress is completed, the Commission
7 may apply any remaining funds for such other equitable relief (including consumer
8 information remedies) as it determines to be reasonably related to the Defendants'
9 practices alleged in the complaint. Any funds not used for such equitable relief shall
10 be deposited to the United States Treasury as disgorgement. Defendants shall have
11 no right to challenge the Commission's choice of remedies under this Paragraph.
12 Defendants shall have no right to contest the manner of distribution chosen by the
13 Commission.

14 C. The Commission's agreement to this Order, requiring that the Defendants be
15 liable for less than the full amount of consumer injury, is expressly premised upon
16 the truthfulness, accuracy and completeness of their sworn financial statements and
17 supporting documents submitted to the Commission, namely the 1999 and 2000 tax
18 returns for Berman, Smith, and Knight provided on March 8, 2002; the 1999 and
19 2000 state and federal tax returns for VDI, submitted March 12, 2002; the corporate
20 financial form for VDI, submitted March 21, 2002; the individual financial
21 statements for Berman, Smith and Knight, submitted April 1, 2002; the additional
22 financial information submitted on April 19, 2002; April 24, 2002; May 30, 2002;
23 June 6, 2002; and June 13, 2002. Such financial statements and supporting
24 documents contain material information upon which the Commission relied in
25 negotiating and agreeing to this Order. If, upon motion by the Commission, this
26 Court finds that Defendants have failed to disclose any material asset of VDI, or
27 materially misstated the value of any of VDI's assets in the financial statements and
28 related documents described above, or have made any other material misstatement

1 or omission in the VDI's financial statements and related documents described
2 above, the Court shall enter judgment against the Individual Defendants, jointly and
3 severally, in the amount of Twenty-Two Million Dollars (\$22,000,000) in U.S.
4 currency, representing the estimated loss to consumers, minus any payments
5 previously made under Paragraph A of this Part V, which amount would be rendered
6 immediately due and payable. Alternatively, if upon motion by the Commission, this
7 Court finds that any Individual Defendant has failed to disclose any of his material
8 assets or materially misstated the value of any asset in the his financial statements
9 and related documents described above, has made any other material misstatement
10 or omission in his financial statements and related documents described above, or
11 has failed to make the payment required by Paragraph A of this Part V, the Court
12 shall enter judgment against such Individual Defendant in the amount of Twenty-Two
13 Million Dollars (\$22,000,000) in U.S. currency, representing the estimated loss to
14 consumers, minus any payments previously made under Paragraph A of this Part V,
15 which amount would be rendered immediately due and payable. For the purpose of
16 this Paragraph, the Defendants waive any right to contest any of the allegations in the
17 Complaint filed in this action.

18 D. In accordance with 31 U.S.C. § 7701, the Defendants are hereby required,
19 unless they have done so already, to furnish the Commission their respective
20 taxpayer identifying numbers (social security numbers or employer identification
21 numbers) which shall be used for the purposes of collecting and reporting on any
22 delinquent amount arising out of Defendants' relationship with the government.

23 E. Defendants agree that the facts as alleged in the Complaint filed in this action
24 shall be taken as true for the purpose of a nondischargeability complaint in any
25 bankruptcy proceeding.

26 F. Proceedings under this Section are in addition to, and not in lieu of, any civil or
27 criminal remedies that may be provided by law, including any other proceedings the
28 Commission may initiate to enforce this Order.

1 **VI. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

2 IT IS FURTHER STIPULATED AND ORDERED that, within five (5) business
3 days after receipt by Defendants of this Order as entered by the Court, Defendant
4 Knight, individually and on behalf of Defendant VDI, and each of other individual
5 Defendants shall execute and submit to the Commission a truthful sworn statement,
6 in the form shown on Appendix A, that shall acknowledge receipt of this Order.

7 **VII. DISTRIBUTION OF ORDER**

8 IT IS FURTHER ORDERED that Defendant VDI and any business where (1)
9 Defendant Knight, Berman, or Smith is a corporate officer, a general partner, or a
10 member of the board of directors, or owns (individually or in combination with
11 another Defendant) a majority of the business and where (2) the business is engaged
12 in advertising, marketing, promotion, offering for sale, distribution or sale of any
13 covered product or service, shall:

14 A. Within thirty (30) days after the date of entry of this Order, deliver a copy of
15 this Order to, and obtain a signed and dated acknowledgment of receipt of same
16 from, each of VDI's current principals, officers, directors, and managers, and
17 to all current employees, agents, and representatives having sales, advertising,
18 consumer service or policy responsibilities, whether designated as employees,
19 consultants, independent contractors or otherwise;

20 B. For a period of three (3) years from the date of entry of this Order, provide a
21 copy of this Order to, and obtain a signed and dated acknowledgment of receipt
22 of same from, each future principal, officer, director, manager, and each
23 employee, agent, and representative having sales, advertising, consumer service
24 or policy responsibilities, whether designated as employees, consultants,
25 independent contractors or otherwise, within thirty (30) days after the person
26 assumes such position or responsibilities; and

27 C. Maintain for a period of three (3) years after creation, and upon reasonable
28 notice, make available to representatives of the Commission, the original

1 signed and dated acknowledgments of the receipt of copies of this Order, as
2 required in Subsection (A) of this Paragraph.

3 **VIII. COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

4 IT IS FURTHER ORDERED that the Commission is authorized to monitor
5 Defendants' compliance with this Order by all lawful means, including but not
6 limited to the following:

7 A. The Commission is authorized, without further leave of court, to obtain
8 discovery from any person in the manner provided by Chapter V of the Federal Rules
9 of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process
10 pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating
11 Defendants' compliance with any provision of this Order;

12 B. The Commission is authorized to use representatives posing as consumers and
13 suppliers to Defendants, Defendants' employees, or any other entity managed or
14 controlled in whole or in part by Defendants, without the necessity of identification
15 or prior notice;

16 C. Nothing in this Order shall limit the Commission's lawful use of compulsory
17 process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to
18 investigate whether Defendants have violated any provision of this Order or Section
19 5 or 12 of the FTC Act, 15 U.S.C. §§ 45, 52.

20 **IX. COMPLIANCE REPORTING**

21 IT IS FURTHER ORDERED that, in order that compliance with the provisions
22 of this Order may be monitored:

23 A. For a period of five (5) years from the date of entry of this Order, each
24 individual Defendant shall notify the Commission of the following:

- 25 1. Any changes in his residence, mailing addresses, and telephone numbers,
26 within twenty (20) days of the date of such change; and
- 27 2. Any changes in his employment status (including self-employment) within
28 twenty (20) days of such change. Such notice shall include the name and

1 address of each business that Defendant is affiliated with or employed by, a
2 statement of the nature of the business, and a statement of Defendant's duties
3 and responsibilities in connection with the business or employment; and

4 B. For a period of five (5) years from the date of entry of this Order, Defendant
5 VDI shall notify the Commission of any proposed change in its structure, such as
6 creation, incorporation, dissolution, assignment, sale, creation or dissolution of
7 subsidiaries, or any other change that may affect compliance obligations arising out
8 of this Order, thirty (30) days prior to the effective date of any proposed change;
9 *provided, however,* that, with respect to any proposed change in the corporation
10 about which VDI learns less than thirty (30) days prior to the date such action is to
11 take place, it shall notify the Commission as soon as is practicable after obtaining
12 such knowledge;

13 C. Sixty (60) days after the date of entry of this Order, Defendants shall provide a
14 written report to the FTC, sworn to under penalty of perjury, setting forth in detail
15 the manner and form in which they have complied and are complying with this Order.
16 This report shall include but not be limited to:

17 1. The individual Defendants' then current residence addresses and telephone
18 numbers;

19 2. The individual Defendants' then current employment, business addresses,
20 and telephone numbers, a description of the business activities of each such
21 employer, and the Defendants' title and responsibilities for each employer;

22 3. Defendant VDI's then current business addresses, telephone numbers, a
23 description of its business activities, and identification of all products that it
24 advertises or sells;

25 4. A copy of each acknowledgment of receipt of this Order obtained by
26 Defendants pursuant to Paragraph VII.

27 5. A statement describing the manner in which Defendants have complied and
28 are complying with Paragraphs I through IV; and

1 D. Upon written request by a representative of the Commission, Defendants shall
2 submit additional written reports (under oath, if requested) and produce documents
3 on twenty (20) days' notice with respect to any conduct subject to this Order.

4 E. For the purposes of this Paragraph, "employment" includes the performance of
5 services as an employee, consultant, or independent contractor; and "employers"
6 include any individual or entity for whom any individual Defendant performs
7 services as an employee, consultant, or independent contractor.

8 F. For purposes of the compliance reporting required by this Paragraph, in the
9 event that Defendants are no longer represented by Emord and Associates, the
10 Commission is authorized to communicate with Defendants directly.

11 **X. ACCESS TO BUSINESS PREMISES**

12 IT IS FURTHER ORDERED that, for a period of three (3) years from the date
13 of entry of this Order, for the purpose of further determining compliance with this
14 Order, Defendants shall permit representatives of the Commission, within three (3)
15 business days of receipt of written notice from the Commission:

16 A. Access during normal business hours to any office, or facility storing
17 documents, of VDI or any business where (1) Defendant Knight, Berman, or Smith
18 is a corporate officer, a general partner, or a member of the board of directors, or
19 owns (individually or in combination with another Defendant) a majority of the
20 business and where (2) the business is engaged in advertising, marketing, promotion,
21 offering for sale, distribution or sale of any covered product or service. In providing
22 such access, Defendants shall permit representatives of the Commission to inspect
23 and copy all documents relevant to any matter contained in this Order; and shall
24 permit Commission representatives to remove documents relevant to any matter
25 contained in this Order for a period not to exceed five (5) business days so that the
26 documents may be inspected, inventoried, and copied; and

27 B. To interview the officers, directors, and employees, including all personnel
28 involved in responding to consumer complaints or inquiries, and all sales personnel,

1 whether designated as employees, consultants, independent contractors or
2 otherwise, of any business to which Subsection (A) of this Paragraph applies,
3 concerning matters relating to compliance with the terms of this Order. The person
4 interviewed may have counsel present.

5 *Provided, however,* that upon application of the Commission and for good cause
6 shown, the Court may enter an *ex parte* order granting immediate access to the
7 premises of any business to which Subsection (A) of this Paragraph applies for the
8 purposes of inspecting and copying all documents relevant to any matter contained
9 in this Order.

10 **XI. RECORD KEEPING PROVISIONS**

11 IT IS FURTHER ORDERED that, for a period of five (5) years from the date of
12 entry of this Order, Defendants in connection with Defendant VDI and any business
13 where (1) Defendant Knight, Berman, or Smith is a corporate officer, a general
14 partner, or a member of the board of directors, or owns (individually or in
15 combination with another Defendant) a majority of the business and where (2) the
16 business engages, or assists others engaged in, the advertising, marketing,
17 promotion, offering for sale, distribution or sale of any covered product or service,
18 and their agents, employees, officers, corporations, successors, and assigns, and
19 those persons in active concert or participation with them who receive actual notice
20 of this Order by personal service or otherwise, are hereby restrained and enjoined
21 from failing to create and retain, unless otherwise specified:

22 A. Accounting records that reflect the cost of goods or services sold, revenues
23 generated, and disbursement of such revenues;

24 B. Personnel records accurately reflecting: the name, address, and telephone
25 number of each person employed in any capacity by such business, including as an
26 independent contractor; that person's job title or position; the date upon which the
27 person commenced work; and the date and reason for the person's termination, if
28 applicable, to the extent such information is obtained in the ordinary course of

1 business;

2 C. Customer files containing the names, addresses, telephone numbers, dollar
3 amounts paid, quantity of items or services purchased, and description of items or
4 services purchased, to the extent such information is obtained in the ordinary course
5 of business;

6 D. Complaint and refund requests (whether received directly, indirectly, or
7 through any third party) and any responses to those complaints or requests;

8 E. Copies of all advertisements, promotional materials, sales scripts, training
9 materials, or other marketing materials utilized in the advertising, marketing,
10 promotion, offering for sale, distribution or sale of any covered product or service,
11 to the extent such information is prepared in the ordinary course of business;

12 F. All materials that were relied upon in making any representations contained in
13 the materials identified in Subparagraph (E), including all documents evidencing or
14 referring to the accuracy of any claim therein or to the efficacy of any covered
15 product or service, including, but not limited to, all tests, reports, studies, demon-
16 strations, or other evidence that confirm, contradict, qualify, or call into question
17 the accuracy or efficacy of such covered product or service; and

18 G. Records accurately reflecting the name, address, and telephone number of
19 each manufacturer or laboratory engaged in the development or creation of any
20 testing obtained for the purpose of advertising, marketing, promoting, offering for
21 sale,

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1 distributing, or selling any covered product or service.

2 **XII. RETENTION OF JURISDICTION**

3 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for
4 purposes of construction, modification, and enforcement of this Order.

5 **SO STIPULATED:**

6
7 _____
8 JANET M. EVANS
9 Federal Trade Commission
10 601 Pennsylvania Ave., N.W., Rm. S-4002
11 Washington, D.C. 20580
12 (202) 326-2125/2263
13 (202) 326-3259 (facsimile)

14 Attorneys for Plaintiff
15 FEDERAL TRADE COMMISSION

16 _____
17 VITAL DYNAMICS, INC.
18 by: Geoffrey Knight, President

19 _____
20 GEOFFREY V. KNIGHT, individually and as an
21 officer or director of Vital Dynamics, Inc.

22 _____
23 MARK D. BERMAN, individually and as an
24 officer or director of Vital Dynamics, Inc.

25 _____
26 ALLEN SMITH, individually and as an officer or
27 director of Vital Dynamics, Inc.

28 _____
29 JONATHAN EMORD
30 CLAUDIA LEWIS-ENG
31 Emord & Associates, P.C.
32 1050 Seventeenth Street, N.W., Suite 600
33 Washington, D.C. 20036
34 (202) 466-6937
35 (202) 466-6938 (facsimile)

36 _____
37 ROBERT D. BASS
38 Greenberg & Bass LLP
39 16000 Ventura Boulevard, Suite 1000
40 Encino, CA 91436
41 (818) 382-6200
42 (818) 986-6534 (facsimile)

43 Attorneys for Defendants

44 **SO ORDERED:**

45 **DATED:**

46 _____
47 UNITED STATES DISTRICT JUDGE

1 **APPENDIX A**

2 UNITED STATES DISTRICT COURT
3 FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

4	FEDERAL TRADE COMMISSION,)	
5)	
6	Plaintiff,)	Hon.
7	v.)	Civil Action No.
8	VITAL DYNAMICS, INC. d/b/a ISIS,)	AFFIDAVIT OF DEFENDANT
9	GEOFFREY V. KNIGHT,)	[NAME]
10	MARK D. BERMAN,)	
11	ALLEN SMITH,)	
12	Defendants)	

13 [Defendant], being duly sworn, hereby states and affirms:

14 1. My name is _____. I am a citizen of the United
15 States and am over the age of eighteen. I have personal knowledge of the matters
16 discussed in this declaration, and if called as a witness, I could and would
17 competently testify as to the matters stated herein. I am a Defendant in the above
18 captioned action.

19 2. My current business address is _____. My
20 current business telephone number is _____. My current residential
21 address is _____. My current residential telephone number is
22 _____.

23 3. On (date) _____, I received a copy of the Stipulated Final Order
24 and Settlement of Claims for Monetary Relief, which was signed by the Honorable
25 _____, United States District Court Judge for the Central District of
26 California. A true and correct copy of the Order that I received is appended to this
27 Affidavit.

28 4. I reaffirm and attest to the truthfulness, accuracy and completeness of

1 the financial statements that I submitted to the Federal Trade Commission on or
2 about _____.

3 I hereby declare under penalty of perjury under the laws of the United States of
4 America that the foregoing is true and correct. Executed on (date) _____, at
5 (city, state) _____, _____.

6 _____

7
8 _____
9 (Name of Defendant)

10 STATE OF _____

11 COUNTY OF _____

12
13 BEFORE ME this day personally appeared _____,
14 who being first duly sworn, deposes and says that s/he has read and understands the
15 foregoing statement and that s/he has executed the same for the purposes contained
16 therein.

17 SUBSCRIBED AND SWORN TO before me this _____ day of _____,
18 2001 by _____. S/he is personally
19 known to me or has presented (state identification)
20 _____ as identification.

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23 _____
24 Print Name

25 NOTARY PUBLIC,
26 STATE OF
27 _____

28 Commission Number

Affix Seal

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