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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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**FEDERAL TRADE COMMISSION,  
Plaintiff,**

v.

**SANI-PURE FOOD LABORATORIES  
and  
RONALD A. SCHNITZER  
Defendants.**

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:  
: **Hon.**  
: **Civil Action No.**  
:  
:  
: **STIPULATED FINAL ORDER**  
: **FOR PERMANENT INJUNCTION**  
: **AND OTHER RELIEF AS TO ALL**  
: **DEFENDANTS**  
:  
:

On **[INSERT DATE]**, Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed a complaint for permanent injunction and other relief, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), against Sani-Pure Food Laboratories and Ronald A. Schnitzer.

The Commission and Defendants have stipulated to the entry of this Final Order for Permanent Injunction (“Order”) in settlement of the Commission’s complaint against Defendants. The Court, being

advised in the premises, finds as follows:

## **FINDINGS**

1. In its complaint, the Commission alleged that Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission sought permanent injunctive relief for alleged deceptive acts or practices by Defendants in connection with representations about testing of a do-it-yourself kit for detecting the presence of bacillus anthracis, the organism that causes anthrax.

2. The Commission has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested.

3. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Defendants. Venue in the District of New Jersey is proper, and the complaint states a claim upon which relief may be granted against the Defendants.

4. The activities of Defendants as alleged in the Commission's complaint were or are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. The Commission and Defendants stipulate and agree to this Order, without trial or final adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the complaint to the date of entry of this Order. By entering this stipulation, Defendants do not admit or deny any of the allegations set forth in the complaint, other than jurisdictional facts. Nothing in this stipulation shall be considered or construed to be an admission of liability by the Defendants.

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

Each party to this Order shall bear its own costs and attorneys' fees incurred in connection with this action.

7. Entry of this Order is in the public interest.

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

## **DEFINITIONS**

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

- A. "Defendants" shall mean Sani-Pure Food Laboratories ("Sani-Pure") and its divisions, subsidiaries, affiliates, and its successors or assigns; Ronald A. Schnitzer, individually and as a partner and officer of Sani-Pure; and any combination of the foregoing.
- B. "Participating associates" shall refer to Defendants' officers, agents, servants, employees, and all persons or entities in active concert or participation with Defendants who receive actual notice of this Order by personal service or otherwise.
- C. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
- D. "Document(s)" or "record(s)" shall refer to:

1. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, magnetic tapes or discs, tabulations, books, records, checks, invoices, workpapers, journals, ledgers, statements, returns, reports, schedules, or files; and
  2. Any information stored on any desktop personal computer (“PC”) and workstations, laptops, notebooks, or other portable computers, whether assigned to individuals or in pools of computers available for shared use; and home computers used for work-related purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and computers and related offline storage used by Defendants’ participating associates, which may include persons who are not employees of the company or who do not work on company premises.
- E. The terms “and” and “or” in this Order shall be construed conjunctively or disjunctively as necessary, to make the applicable sentence or phrase inclusive rather than exclusive.
- F. The term “including” shall mean “without limitation.”
- G. “Biohazard” shall refer to any biological or chemical warfare agent, including but not

limited to anthrax, small pox, sarin gas, mustard gas, or other such substance.

## **I. PROHIBITED BUSINESS ACTIVITIES**

**IT HEREBY STIPULATED AND ORDERED** that the Defendants and their participating associates, are permanently enjoined from:

- A. Misrepresenting, or assisting others in misrepresenting, in any manner, expressly or by implication, with regard to any product tested or certified by them, any material fact, including but not limited to the accuracy, effectiveness, benefits, performance, or safety of the product, or the validity, methodology, or results of any testing or other review procedure conducted on the product;
- B. Misrepresenting, or assisting others in misrepresenting, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research; and
- C. Representing, or assisting others in representing, in any manner, expressly or by implication, the characteristics or performance of any product tested by them, including representing, expressly or by implication, that any product they have tested is fit for its intended use, unless, at the time of making such representation, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

## **II. BAN ON CERTAIN TESTING**

**IT IS FURTHER STIPULATED AND ORDERED** that Defendants and their participating

associates, are permanently enjoined from testing to evaluate or determine:

- A. the presence or absence of a biohazard in any context; or
- B. the efficacy of any product or service designed to detect the presence or absence of a biohazard.

### **III. NOTIFICATION TO COMMISSION**

**IT IS FURTHER STIPULATED AND ORDERED** that any requirement that Defendants “notify” or “provide” any information or material to the Commission, shall mean that Defendants shall send the necessary information or material via first-class mail, costs prepaid, to:

Associate Director for Advertising Practices  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, DC 20580  
Attn: FTC v. Sani-Pure Food Laboratories  
Matter No. 022 3144

### **IV. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

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

### **V. DISTRIBUTION OF ORDER**

**IT IS FURTHER STIPULATED AND ORDERED** that Defendants shall:

- A. Within five (5) business days after receipt by Defendants of this Order as entered by the

Court, provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each current officer or director, manager, and individual involved in sales or responding to consumer complaints or inquiries, whether designated as employees, consultants, independent contractors or otherwise, of Sani-Pure and any business where (1) Defendant Schnitzer is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in product testing or in the advertising, marketing, promoting, offering for sale, or sale of test products or services; and

- B. For a period of three (3) years from the date of entry of this Order, immediately upon employing or retaining any such persons, provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each new officer or director, manager, and individual involved in sales or responding to consumer complaints or inquiries, whether designated as employees, consultants, independent contractors or otherwise, of Sani-Pure and any business where (1) Defendant Schnitzer is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in product testing or in the advertising, marketing, promoting, offering for sale, or sale of test products or services; and
- C. Maintain for a period of three (3) years after creation, and upon reasonable notice, make available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Subsections (A)

and (B) of this Part.

## **VI. COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

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

- A. The Commission is authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating Defendants' compliance with any provision of this Order;
- B. The Commission is authorized to use representatives posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by Defendants, without the necessity of identification or prior notice;
- C. Nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate whether Defendants have violated any provision of this Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

## **VII. COMPLIANCE REPORTING**

**IT IS FURTHER STIPULATED AND ORDERED** that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order, Defendant Schnitzer shall notify the Commission of the following:
1. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change; and
  2. Any changes in his employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that Defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of Defendant's duties and responsibilities in connection with the business or employment; and
- B. For a period of five (5) years from the date of entry of this Order, Defendant Sani-Pure shall notify the Commission of any proposed change in its structure, such as creation, incorporation, dissolution, assignment, sale, creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this Order, thirty (30) days prior to the effective date of any proposed change; and
- C. One hundred eighty (180) days after the date of entry of this Order, Defendants shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include but not be limited to:
1. Defendant Schnitzer's then current residence address and telephone number;
  2. Defendant Schnitzer's then current employment, business addresses, and telephone

numbers, a description of the business activities of each such employer, and Defendant's title and responsibilities for each employer;

3. Defendant Sani-Pure's then current business addresses, telephone numbers, a description of its business activities, and identification of all products or services that it advertises or sells;
  4. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to Part V.A and V.B; and
  5. A statement describing the manner in which Defendants have complied and are complying with Parts I and II.
- D. Upon written request by a representative of the Commission, Defendants shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Order.
- E. For the purposes of this Part, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom Defendant Schnitzer performs services as an employee, consultant, or independent contractor.
- F. For purposes of the compliance reporting required by this Part, the Commission is authorized to communicate directly with Defendants.

#### **VIII. ACCESS TO BUSINESS PREMISES**

**IT IS FURTHER STIPULATED AND ORDERED** that, for a period of three (3) years

from the date of entry of this Order, for the purpose of further determining compliance with this Order, Defendants shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

- A. Access during normal business hours to any office, or facility storing documents, of Sani-Pure or any business where (1) Defendant Schnitzer is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in product testing or in the advertising, marketing, promoting, offering for sale, or sale of test products or services. In providing such access, Defendants shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Order; and
- B. To interview, in the presence of counsel, the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Subsection (A) of this Part applies, concerning matters relating to compliance with the terms of this Order.

*Provided* that, upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to Defendants' business premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

#### **IX. RECORD KEEPING PROVISIONS**

**IT IS FURTHER STIPULATED AND ORDERED** that, for a period of five (5) years from

the date of entry of this Order, in connection with Defendant Sani-Pure or any business where (1) Defendant Schnitzer is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in product testing or in the advertising, marketing, promoting, offering for sale, or sale of test products or services are permanently enjoined from failing to retain, unless otherwise specified:

- A. All test reports produced by Defendants, plus underlying documentation demonstrating how the testing was conducted and the results, as well as other evidence that confirms, contradicts, qualifies, or calls into question the accuracy or efficacy of such test results;
- B. Records containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, for all purchasers to whom Defendants have provided test services; and
- C. Records that reflect every customer complaint or refund request relating to any test product or services, and Defendants' response thereto.

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**X. RETENTION OF JURISDICTION**

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

**SO STIPULATED:**

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JANET M. EVANS  
RIELLE C. MONTAGUE  
Federal Trade Commission  
600 Pennsylvania Ave., N.W., Rm. S-4002  
Washington, D.C. 20580  
(202) 326-2125/2263  
(202) 326-3259 (facsimile)

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

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SANI-PURE FOOD LABORATORIES  
by: Ronald Schnitzer, Partner

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RONALD SCHNITZER, individually and as a  
partner of Sani-Pure Food Laboratories

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LAWRENCE S. HORN, ESQ.  
A. ROSS PEARLSON, ESQ.  
Sills Cummis Radin Tischman Epstein & Gross  
One Riverfront Plaza  
Newark, New Jersey 07102-5400  
(973) 643-7000  
(973) 643-6500 (facsimile)

Attorneys for Defendants

**SO ORDERED**

DATED: \_\_\_\_\_

UNITED STATES DISTRICT JUDGE

**APPENDIX A**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT NEW JERSEY

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<b>FEDERAL TRADE COMMISSION,</b>	:
<b>Plaintiff,</b>	: <b>Hon.</b>
	: <b>Civil Action No.</b>
	:
<b>v.</b>	: <b>AFFIDAVIT OF DEFENDANT</b>
	:
<b>SANI-PURE FOOD LABORATORIES :[NAME ]</b>	:
<b>and</b>	:
<b>RONALD A. SCHNITZER</b>	:
<b>Defendants.</b>	:

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

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

2. My current business address is \_\_\_\_\_. My current business telephone number is \_\_\_\_\_. My current residential address is \_\_\_\_\_. My current residential telephone number is \_\_\_\_\_.

3. On (date) \_\_\_\_\_, I received a copy of the Stipulated Final Order, which was signed by the Honorable \_\_\_\_\_, United States District Court Judge for the District of New Jersey. A

true and correct copy of the Order that I received is appended to this Affidavit.

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

\_\_\_\_\_  
(Name of Defendant)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_ by \_\_\_\_\_ S/he is personally known to me or has presented (state identification) \_\_\_\_\_ as identification.

\_\_\_\_\_  
Print Name

NOTARY PUBLIC,  
STATE OF \_\_\_\_\_

Commission Number  
Affix Seal