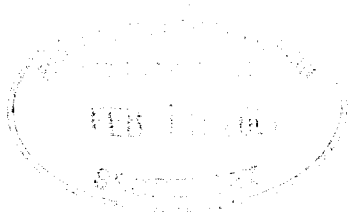
UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of	)	
NATURAL ORGANICS, INC., a corporation, and	)	DOCKET NO. 9294
GERALD A. KESSLER, individually and as an officer of the corporation.	)	

ORDER GRANTING IN PART, AND DENYING IN PART, RESPONDENTS' MOTIONS FOR THE ISSUANCE OF SUBPOENAS TO DAVID T. READ AND THE U.S. FOOD AND DRUG ADMINISTRATION

Respondents on January 16, 2001, served two motions for subpoenas. One proposed subpoena requested Mr. David Read of the Food and Drug Administration ("FDA") to appear for a deposition on February 21, 2001. The second subpoena directed FDA's Center for Drug Evaluation and Research to produce documents by February 16, 2001. Complaint counsel opposed the latter request on the grounds (1) that the proposed return date gave insufficient time for the FDA to exercise its motion-to-quash rights and to produce documents, (2) that certain document requests were excessively broad in scope, and (3) that Respondents did not carry their burden under § 3.36(b)(3) of showing that key documents "cannot reasonably be obtained by other means."

Complaint Counsel challenges the scope and relevancy of certain proposed document requests to the FDA regarding its actions on Riker Laboratories' "Deaner Tablets," a product asserted to include an ingredient similar to one in Respondents' product, and its actions on other products. Complaint counsel asserts that Respondents have a right to reasonable discovery regarding FDA's actions on Deaner Tablets and products having similar ingredients, but that Specifications 21 - 27 in particular are excessive in scope relative to the purposes for which the FDA evidence is offered. Having considered Respondents' and Complaint counsel's arguments, IT IS HEREBY ORDERED:

1. That Respondents' Motion for Issuance of a Subpoena Ad Testificandum for the Appearance for Deposition of David T. Read, Supervisory Regulatory Counsel for the Center for Drug Evaluation and Research of the U.S. Food and Drug Administration is GRANTED, on the condition that Respondents shall defer the deposition to a later date within the discovery cutoff; and

2. That Respondents' Motion for the Issuance of a Subpoena Duces Tecum to the Center for Drug Evaluation and Research of the U.S. Food and Drug Administration is hereby GRANTED IN PART AND DENIED IN PART, as follows:

a. Specification 1 will be restricted to a request for documents sufficient to show Mr. Read's titles and responsibilities within the FDA;

b. Specifications 10, 12, and 15 shall be restricted to request documents sufficient to show those persons who exercised substantial authority in the evaluation and approval of the FDA actions specified therein;

c. Specifications 2, 5, 8, 11, 13, and 16 shall be restricted to requesting documents sufficient to show the basis for the specified FDA actions, including dissenting views of those with substantial decision-making authority;

d. The document request will omit specifications 21 - 27 (requests relating to FDA actions on products not containing deanol);

e. The subpoena shall specifically exclude requests for documents already in Respondents' possession by virtue of previous FOIA requests to the FDA;

f. Instruction #12 regarding information that the FDA must provide with respect to withheld documents shall be modified to conform with § 3.38A of the Commission's Rules; and

g. The subpoena shall give the FDA a minimum of 30 days to respond to the subpoena.

James P. Timony
Administrative Law Judge

Dated: February 12, 2001