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24 Federal Trade Commission

25 UNITED STATES DISTRICT COURT
26 CENTRAL DISTRICT OF CALIFORNIA

27 FEDERAL TRADE COMMISSION,
28 Plaintiff,

v.

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)
ZLATKO ZADRO,)
individually and as an officer of)
Zadro Health Solutions, Inc., and)
)
REBECCA ZADRO, aka Becky)
Zadro, individually and as an officer)
of Zadro Health Solutions, Inc.,)
)
Defendants.)

Plaintiff, the Federal Trade Commission (“Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The Commission and Defendants stipulate to entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with the advertising, marketing, distribution, offering for sale, and sale of ultraviolet light disinfection devices, including the Nano-UV

1 Disinfection Scanner, the Nano-UV Wand, and the Nano-UV Water Disinfectant
2 devices.

3 3. Defendants neither admit nor deny any of the allegations in the
4 Complaint, except as specifically stated in this Order. Only for purposes of this
5 action, Defendants admit the facts necessary to establish jurisdiction.
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7 4. Defendants waive any claim they may have under the Equal Access to
8 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the
9 date of this Order, and agree to bear their own costs and attorney fees.
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11 5. Defendants and the Commission waive all rights to appeal or otherwise
12 challenge or contest the validity of this Order.
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14 **DEFINITIONS**

15 For the purpose of this Order, the following definitions apply:
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17 A. “Defendants” means all the Individual Defendants and the Corporate
18 Defendant, individually, collectively, or in any combination.
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20 B. “Corporate Defendant” means Defendant Zadro Health Solutions, Inc.,
21 and its successors and assigns.
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23 C. “Individual Defendants” means Zlatko Zadro and Rebecca Zadro, aka
24 Becky Zadro.
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26 D. “Device,” as defined in Section 15 of the FTC Act, 15 U.S.C. § 55,
27 means an instrument, apparatus, implement,
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1 reagent, or other similar or related article, including any component, part, or
2 accessory, which is (1) recognized in the official National Formulary, or the United
3 States Pharmacopeia, or any supplement to them; (2) intended for use in the
4 diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or
5 prevention of disease, in man or other animals; or (3) intended to affect the structure
6 or any function of the body of man or other animals; and which does not achieve
7 any of its principal intended purposes through chemical action within or on the
8 body of man or other animals and which is not dependent upon being metabolized
9 for the achievement of any of its principal intended purposes.
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13 E. “Reliably Reported,” for a human clinical test or study (“test”), means
14 a report of the test has been published in a peer-reviewed journal, and such
15 published report provides sufficient information about the test for experts in the
16 relevant field to assess the reliability of the results.
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19 **ORDER**

20 **I.**

21 **PROHIBITION AGAINST FALSE OR UNSUBSTANTIATED CLAIMS**

22 IT IS ORDERED that Defendants, Defendants’ officers, agents, and
23 employees, and all other persons in active concert or participation with any of them,
24 who receive actual notice of this Order, whether acting directly or indirectly,
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1 are permanently restrained and enjoined from making, or assisting others in making,

2 A. any misrepresentation, expressly or by implication, in connection with
3 the promoting or offering for sale of any Device, that:
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- 5 1. the Device kills 99.9%, or any percentage, of bacteria, germs,
6 and viruses, including *E. coli*, *Salmonella*, *Staphylococcus*
7 *Aureus*, and the H1N1 virus, on any surface in only 10 seconds
8 or any time period;
- 9 2. the Device stops the spread of germs, from the common cold
10 and flu viruses to bacteria, mold, and fungus;
- 11 3. the Device kills dust mite populations and eggs, flea eggs, and
12 bed bug eggs in pillows, bedding, and carpet; or
- 13 4. the Device eliminates 99.9%, or any percentage, of bacteria,
14 mold, and fungus on water surfaces in only 10 seconds or any
15 time period, or in water in only 40 seconds or any time period;
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22 B. any representation, expressly or by implication, about the health
23 benefits, performance, or efficacy of any product or service, unless the
24 representation is non-misleading, and, at the time such representation is made,
25 Defendants possess and rely upon competent and reliable scientific evidence that is
26 sufficient in quality and quantity based on standards generally accepted in the
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1 relevant scientific fields, when considered in light of the entire body of relevant and
2 reliable scientific evidence, to substantiate that the representation is true.

3 For purposes of this Section, competent and reliable scientific evidence
4 means tests, analyses, research, or studies (1) that have been conducted and
5 evaluated in an objective manner by qualified persons; (2) that are generally
6 accepted in the profession to yield accurate and reliable results; and (3) as to which,
7 when they are human clinical tests or studies, all underlying or supporting data and
8 documents generally accepted by experts in the field as relevant to an assessment of
9 such testing as set forth in the Section entitled Preservation of Records Relating to
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1 the test, including any participants who did not complete the test; source documents
2 for such data; any data dictionaries; and any case report forms;

3 D. All documents referring or relating to any statistical analysis of any test
4 data, including, but not limited to, any pretest analysis, intent-to-treat analysis, or
5 between-group analysis performed on any test data; and
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7 E. All documents referring or relating to the sponsorship of the test,
8 including all communications and contracts between any sponsor and the test's
9 researchers.
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12 Provided, however, the preceding preservation requirement shall not apply to
13 a Reliably Reported test, unless the test was conducted, controlled, or sponsored, in
14 whole or in part by: (1) any Defendant; (2) any Defendant's officers, agents,
15 representatives, or employees; (3) any othe
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1 writing and shall contain administrative, technical, and physical safeguards
2 appropriate to Defendants' size and complexity, the nature and scope of
3 Defendants' activities, and the sensitivity of the personal information collected from
4 or about the participants.
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6 **IV.**

7 **FDA APPROVED CLAIMS**

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9 IT IS FURTHER ORDERED that nothing in this Order shall prohibit
10 Defendants from:
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12 A. Making any representation for any drug that is permitted in labeling for
13 such drug under any tentative or final monograph promulgated by the Food and
14 Drug Administration, or under any new drug application approved by the Food and
15 Drug Administration; and
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17 B. Making any representation for any product that is specifically
18 permitted in labeling for such product by regulations promulgated by the Food and
19 Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990
20 or permitted under Sections 303-304 of the Food and Drug Administration
21 Modernization Act of 1997.
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V.

MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Six Hundred Twenty-Nine Thousand Three Hundred and Fifty-Nine Dollars (\$629,359) is entered in favor of the Commission against Corporate Defendant Zadro Health Solutions, Inc., as equitable monetary relief.

B. Corporate Defendant Zadro Health Solutions, Inc. is ordered to pay to the Commission Two Hundred Twenty-Two Thousand and Twenty-Nine Dollars (\$222,029), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of the Order by electronic fund transfer in accordance with instructions to be provided by a representative of the Commission. Upon such payment, the remainder of the judgment is suspended, subject to the Subsections below.

C. The Commission's agreement to the suspension of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendant Zadro Health Solutions, Inc.'s sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely the Financial Statement of Corporate Defendant Zadro Health Solutions, Inc., signed by

1 corporate president Zlatko Zadro on June 15, 2015, including the attachments.

2 D. The suspension of the judgment will be lifted if, upon motion by the
3 Commission, the Court finds th
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1 reasonable notice, at such places and times as a Commission representative may
2 designate, without the service of a subpoena.

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4 **VIII.**

5 **ORDER ACKNOWLEDGMENTS**

6 IT IS FURTHER ORDERED that Defendants obtain acknowledgments of
7 receipt of this Order:
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9 A. Each Defendant, within 7 days of entry of this Order, must submit to
10 the Commission an acknowledgment of receipt of this Order sworn under penalty of
11 perjury.
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13 B. For 5 years after entry of this Order, each Individual Defendant for any
14 business such Defendant, individually or collectively with any other Defendants, is
15 the majority owner or controls directly or indirectly, and the Corporate Defendant,
16 must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC
17 managers and members; (2) all employees, agents, and representatives who
18 participate in approving the advertising, marketing, distribution, offering for sale,
19 and sale of such Defendant's products; and (3) any business entity resulting from
20 any change in structure as set forth in the Section titled Compliance Reporting.
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22 Delivery must occur within 7 days of entry of this Order for current personnel. For
23 all others, delivery must occur before they assume their responsibilities.
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1 E. A copy of each unique advertisement or other marketing material.

2 **XI.**

3 **COMPLIANCE MONITORING**

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5 IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants'
6 compliance with this Order, and any failure to transfer any assets as required by this
7 Order:
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9 A. Within 14 days of receipt of a written request from a representative of
10 the Commission, each Defendant must: submit additional compliance reports or
11 other requested information, which must be sworn under penalty of perjury; appear
12 for depositions; and produce documents for inspection and copying. The
13 Commission is also authorized to obtain discovery, without further leave of court,
14 using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30
15 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
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19 B. For matters concerning this Order, the Commission is authorized to
20 communicate directly with each Defendant. Each Defendant must permit
21 representatives of the Commission to interview any employee or other person
22 affiliated with the Defendant who has agreed to such an interview. The person
23 interviewed may have counsel present.
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26 C. The Commission may use all other lawful means, including posing,
27 through its representatives, as consumers, suppliers, or other individuals or entities,
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