

As I.A.S. Part 49 of the Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, New York on the 17th day of June, 1988.

P R E S E N T :

HON. KENNETH L. SHORTER,

Justice

PEOPLE OF THE STATE OF NEW YORK, by ROBERT ABRAMS, Attorney General of the State of New York,

Petitioners,

- against -

OGUN HERBAL RESEARCH INSTITUTE d/b/a USFA HERBAL RESEARCH INSTITUTE; ALFREDO BOWMAN a/k/a DR. SEBI; ANNETTE THOMAS: PAA BOWMAN and FIG TREE PRODUCTS COMPANY,

Respondents.

JUN 09 1988 JUDGMENT AND ORDER ON CONSENT

Index No. 40396/87

Upon the order to show cause with temporary restraining order, granted on February 9, 1987 by Hon. Kenneth L. Shorter, the petition, verified on February 9, 1987 by Phillis B. Spaeth, Assistant Attorney General and the exhibits attached thereto, upon the temporary restraining order granted by Hon. Kenneth L. Shorter on February 18, 1987, the affirmation in reply by Phyllis B. Spaeth dated May 14, 1987 and the exhibits attached thereto, petitioner's memorandum of law in support of the verified petition dated May 14, 1987, the answer of

respondents dated June 18, 1987, the amended answer of respondents dated June 24, 1987, the supplemental affidavit by Phyllis B. Spaeth dated July 1, 1987, and petitioners' supplemental memorandum of law dated July 6, 1987; and

Trial having commenced on July 1, 1987 before Hon. Kenneth L. Shorter, testimony having been taken on the 1st, 6th, 7th, 8th, 9th, 13th, 14th, 15th and 16th days of July, 1987, and the trial having been adjourned until September 4, 1987 and thence further adjourned; and appearance having been made for petitioners, Robert Abrams, Attorney General of the State of New York by Peter Bienstock, Mary Hilgeman, Susan Rowley and Phyllis B. Spaeth, Assistant Attorneys General, and for respondents Ogun Herbal Research Institute d/b/a Usha Herbal Research Institute, Alfredo Bowman a/k/a Dr. Sebi, Maa Bowman, by Simeon Greenaway, Esq.; and upon the stipulation and consent dated May 31/88 executed by the parties and their counsel; and

IT APPEARING that petitioners, the People of the State of New York, commenced this proceeding pursuant to New York Executive Law, Section 62(12) against the above-named respondents to enjoin alleged fraudulent and illegal acts or practices in which respondents are alleged to have been engaged; and

IT APPEARING that respondents, without admitting that they are or have been engaged in any alleged fraudulent or illegal acts or practices, are desirous of resolving this matter without further trial or adjudication of any issue of fact or law herein in order to avoid incurring further substantial costs

necessary to defend themselves against petitioners' allegations and

IT APPEARING that nothing in this Consent Judgment shall prohibit respondents from engaging in any lawful activities that are in compliance with local, state and federal laws

NOW THEREFORE, and upon consent of the petitioners and the respondents, and their respective attorneys, and on motion of Robert Abrams, Attorney General of the State of New York, attorney for petitioners, by Assistant Attorneys General John Corwin, Mary Hilgeman, Susan Rowley and Phyllis B. Spaeth, of counsel, it is

I.

RESPONDENT THOMAS

ORDERED AND DECREED that, whereas petitioners and respondent Annette Thomas have entered into separate settlement discussions, the claims alleged against the respondent Annette Thomas shall be and hereby are severed and are not a part of this judgment and order; and it is further

II.

PARTIES SUBJECT TO ORDER

ORDERED, ADJUDGED AND DECREED that this judgment and Order shall extend to Ogun Herbal Research Institute d/b/a Herbal Research Institute ("USHA"), Fig Tree Products Company, their principals, officers, directors, employees, agents,

- 3 -

successors, heirs and assigns and Alfreda Bowman and Mia Bowman, their successors, heirs and assigns; and it is further

III.

PERMANENT INJUNCTION

ORDERED, ADJUDGED AND DECREED that respondents are permanently enjoined from engaging in any fraudulent, deceptive or illegal acts of practices including, but not limited to:

1. claiming, orally or in writing, directly or by implication, that respondents, their services or their products can cure, mitigate, or in any way relieve or alter the course of AIDS, herpes, leukemia, sickle cell anemia, lupus or any other human disease, pain, injury, deformity or physical condition;
2. distributing or publishing any advertisement, brochure or other printed matter or broadcasting any advertisement which claims, directly or by implication, that respondents, their services or their products, can cure, mitigate or in any way relieve or alter the course of AIDS, herpes, leukemia, sickle cell anemia,

- lupus or any other human disease, pain, injury deformity or physical condition;
3. diagnosing, treating or prescribing for any human disease, pain injury, deformity or physical condition without a valid license to practice medicine or other lawful authorization to practice medicine issued by the New York State Department of Education;
  4. selling or otherwise distributing any products which are labeled or otherwise advertised with claims regarding the product's ability, either alone, or in combination with other products or procedures, to aid in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals;
  5. selling or otherwise distributing any products which are labeled or advertised with claims regarding the product's ability to affect the structure or any function of the body of humans or other animals; and it is further

ORDERED, ADJUDGED AND DECREED that respondents shall give a copy of this Judgment and Order to each and every person who works for or performs any service for any respondent, in any capacity, either for pay or as a volunteer or as an independent contractor, whether currently or in the future, and respondents shall obtain a written receipt of a copy of the order from each of these persons within 10 days of service of a copy of this Judgment and Order or within three days of the individual's first day of association with any respondent, whichever is later. Respondents shall retain these written receipts as part of their business records; and it is further

## V.

RESTITUTIONA. Public Notice

ORDERED AND DECREED that, within 60 days of the entry of this Consent Judgment, respondents shall place three advertisements in New York Amsterdam News offering a full refund to any consumer who claims she/he was or is dissatisfied with any of respondents' products or services.

The first advertisement shall be published within 30 days of the entry of this Judgment and Order on Consent and the following two advertisements shall be published within 30 days of the publication of the first advertisement; each of of the 3

publications shall be published at least two weeks apart from either of the other two advertisements. Each advertisement shall be in at least 15 point type and shall state the following:

NOTICE OF REFUND

"Any one dissatisfied with any of the services of products of USHA HERBAL RESEARCH INSTITUTE or Alfredo Bowman a/k/a "Dr. Sebi" can apply for a full refund. Request must be made no later than (six months from the date of entry of this Consent Judgment), in writing, and sent to the New York State Attorney General, Consumer Frauds Bureau, 120 Broadway, 3rd Floor, New York, New York 10271";

and it is further

B. Refunds

ORDERED AND DECREED that respondents shall forward to the Attorney General any claims for refunds made directly to respondents within five days of receipt of such claims; and it is further

ORDERED AND DECREED that respondents shall, within 30 days of receipt from the Attorney General of the name(s) of consumer(s) and the amount of refund due, deliver a full refund to the Attorney General's office which shall forward the refund to the consumer(s); and it is further

VI.

ORDERED AND DECREED that respondents shall, within 60 days of the entry of this Judgment and Order, submit an affidavit to the Attorney General c/o Assistant Attorney General Susan Rowley, which shall identify each of respondents' products, including the contents of each, and provide copies of all labels, brochures, advertisements and any other writings containing product claims for each and every product sold and/or distributed by respondents; and it is further

VII.

ORDERED AND DECREED that respondents shall, within 80 days of the entry of this Judgment and Order, submit an affidavit to the Attorney General, c/o Assistant Attorney General Susan Rowley, which shall detail respondents compliance with decretal paragraph V Restitution Part A Public Notice and provide proof thereof; and it is further

VIII.

ORDERED AND DECREED that the entry of this Judgment and Order on Consent does not constitute acceptance or approval of any kind by the petitioners of any respondents' products, labeling, advertising, claims and/or brochures and respondents shall make no representation to the contrary; and it is further

CCSTS

ORDERED, ADJUDGED AND DECREED that petitioners, the People of the State of New York, by their Attorney General, Robert Abrams, 120 Broadway, New York, New York 10271, shall recover jointly and severally from respondents Ogun Herbal Research Institute d/b/a USFA Herbal Research Institute, 616 Pacific Street, Brooklyn, New York 11217; Alfredo Bowman, [REDACTED]; Maa Bowman, [REDACTED]; and Fig Tree Products Company c/o Maa Bowman, 802 Calle Cisne, Urb. Dos Pinos, Rio Piedras, Puerto Rico, 00923, as costs and the Attorney General shall have execution thereof; and it is further

\* *Nine Hundred Dollars* as costs and the Attorney General *KL\**

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CONTINUING JURISDICTION

ORDERED AND DECREED that this Court shall retain jurisdiction over this matter and, upon five days' notice, petitioners may apply to the Court for such supplement relief as the Court deems just and proper.

E N T E R

*[Handwritten Signature]*  
 \_\_\_\_\_  
 J.S.C.

*Norman L. [Handwritten Name]*  
 Chief

7-5-88  
 DATE  
 I hereby certify that the foregoing is a true copy of the original, filed in my office on this day of 6/28/88  
**FILED**  
 JUN 28 1988  
 COUNTY CLERK'S OFFICE  
 NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: IAS PART 49

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PEOPLE OF THE STATE OF NEW YORK, by :  
ROBERT ABRAMS, Attorney General of :  
the State of New York, :  
  
Petitioners, :  
  
- against - : NOTICE OF ENTRY  
  
OGUN HERBAL RESEARCH INSTITUTE : INDEX NO. 40396/87  
d/b/a USHA HERBAL RESEARCH INSTITUTE;  
ALFREDO BOWMAN a/k/a DR. SEBI; :  
ANNETTE THOMAS; MAA BOWMAN; and FIG :  
TREE PRODUCTS COMPANY, :  
  
Respondents. :  
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PLEASE TAKE NOTICE that the annexed is a true copy  
of the Judgement and Order on Consent granted by Justice  
Kenneth L. Shorter on June 7, 1988 and entered by the Clerk  
of the court on June 28, 1988.

DATED: New York, New York  
July 20, 1988

ROBERT ABRAMS  
Attorney General of the  
State of New York  
120 Broadway  
New York, NY 10271

SUSAN ROWLEY  
Assistant Attorney General  
Tel. No. (212) 341-2294