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 3 Head Deputy District Attorney
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FILED
 LOS ANGELES SUPERIOR COURT

DEC 14 2005

JOHN A. CLARKE, CLERK

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 LA. SUPERIOR COURT



Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. BC338072
)	
12 Plaintiff,)	STIPULATION FOR
)	ENTRY OF FINAL
13 v.)	JUDGMENT
)	
14 BIO-ENERGY SERVICES, INC.;)	
15 BIOPHOTONIX, INC. and GERALD ALLEN)	
16 ANDERSON, also known as JERRY A. ANDERSON;)	
17 and Does 1 through 10, inclusive,)	
)	
18 Defendants.)	

19 IT IS HEREBY STIPULATED, by and between plaintiff, the PEOPLE OF THE
 20 STATE OF CALIFORNIA, by and through Steve Cooley, District Attorney of the County of Los
 21 Angeles, by Thomas A. Papageorge and Leslie A. Hanke, Deputy District Attorneys, County of
 22 Los Angeles; and defendants BIOPHOTONIX, INC., appearing by and through its attorney Greg
 23 Hendrickson, and GERALD ALLEN ANDERSON also known as JERRY A. ANDERSON
 24 appearing in propria persona, that the FINAL JUDGMENT PURSUANT TO SITPULATION,
 25 a copy of which is attached hereto as Exhibit "A" and by this reference made a part hereof, may
 26 be entered in the above entitled matter.
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A Declaration from Defendant Gerald Allen Anderson regarding the waiver of civil due process rights is attached hereto as Exhibit "B".

IT IS FURTHER STIPULATED by all parties that the proposed Final Judgment may be signed by any judge or commissioner of the Superior Court of the State of California, County of Los Angeles, and entered by the Clerk, without notice, provided that this Stipulation has been executed by counsel and parties listed below.

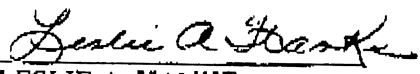
DATED: 11/30/05

STEVE COOLEY
District Attorney

THOMAS A. PAPAGEORGE
Head Deputy District Attorney

LESLIE A. HANKE
Deputy District Attorney

By



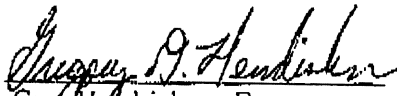
LESLIE A. HANKE
Attorneys for Plaintiff

DATED: 11/18/05



GERALD ALLEN ANDERSON,
a.k.a. JERRY A. ANDERSON
Defendant, in Propria Persona

DATED: 11/18/05



Greg Hendrickson Esq.
Attorney for Defendant
BioPhotonix, Inc.

1 STEVE COOLEY, District Attorney
 THOMAS A. PAPAGEORGE, State Bar No. 77690
 2 Head Deputy District Attorney
 3 LESLIE A. HANKE, State Bar No. 122237
 Deputy District Attorneys
 4 201 North Figueroa Street, 12th Floor
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6 Attorneys for Plaintiff

7
 8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF LOS ANGELES

11 THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. BC338072
)	
12 Plaintiff,)	FINAL JUDGMENT
)	PURSUANT TO
13 v.)	STIPULATION
)	
14 BIO-ENERGY SERVICES, INC.;)	
15 BIOPHOTONIX, INC. and GERALD ALLEN)	
16 ANDERSON, also known as JERRY A. ANDERSON;)	
and Docs 1 through 10, inclusive,)	
)	
17 Defendants.)	
)	

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19 Plaintiff, the PEOPLE OF THE STATE OF CALIFORNIA, having filed it's
 20 Complaint herein; and defendants, BIOPHOTONIX, INC., a Nevada Corporation, and GERALD
 21 ALLEN ANDERSON, also known as JERRY A. ANDERSON, having acknowledged receipt
 22 thereof; and
 23
 24 Plaintiff appearing through its attorneys Steve Cooley, District Attorney of Los
 25 Angeles County, by Thomas A. Papageorge and Leslie A. Hanke, Deputy District Attorneys, and
 26 defendant BioPhotonix, Inc. appearing by and through its counsel Greg Hendrickson, and
 27 defendant Gerald Allen Anderson appearing in propria persona; and
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EX A /

FINAL JUDGMENT PURSUANT TO STIPULATION

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IT APPEARING TO THE COURT that the parties hereto have stipulated to the entry of this Final Judgment, the court having considered the matter and good cause appearing therefore; and

Plaintiff and defendants having stipulated and consented to the entry of this Judgment prior to the taking of any proof, and without trial or adjudication of any fact or law herein, and without this Judgment constituting any admission by defendants regarding any issue of fact or law alleged in said Complaint; and

The Court having considered the pleadings:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff have judgment against the defendants as follows:

JURISDICTION

1. This action is brought under California law and this Court has jurisdiction of the subject matter hereof and the parties hereto.

APPLICABILITY

2. The provisions of this Judgment, including the injunction contained herein, are applicable to defendants and to their officers, directors, employees, agents, and representatives, acting within the actual and ostensible scope of their employment, and to all assigns or successors of the defendants, and to all persons, partnerships, corporations, and other entities acting by, through, or on behalf of the defendants, and to all persons acting in concert or participation with the defendants, who have actual or constructive knowledge of this Judgment.

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INJUNCTION

1
2 3. Defendants, and all persons, corporations and entities set forth in paragraph 2
3 above, are hereby enjoined and restrained from engaging in any of the following acts or
4 practices:

5
6 a. Making or causing to be made, directly or by implication, any
7 untrue, misleading or unsubstantiated representation or medical claim, written or oral, in any
8 product promotional materials, product literature, merchandising kits, operator training manuals,
9 instructional materials, reference guides, advertising, investment solicitations, sales and leasing
10 materials, or by any other means, for the purpose of inducing, or which are likely to induce, the
11 use, purchase, sale or lease of any food, drug, device or cosmetic, including the PAP-IMI device,
12 in violation of Business and Professions Code section 17500 or Health and Safety Code section
13 110390:

14
15 b. Engaging in any conduct that is in violation of Health and Safety
16 Code section 109875, et seq., commonly known as the Sherman Food, Drug and Cosmetic Law;

17
18 c. Advertising any drug or device, including but not limited to the
19 PAP-IMI device, represented to have any effect on any of the following listed conditions or
20 disorders including, but not limited to, cancer, diabetes, diseases or disorders of the immune
21 system, joint disease, kidney diseases or disorders, or on any other conditions or disorders listed
22 in, and prohibited by, Section 110403 of the Health and Safety Code;

23
24 d. Selling, holding or offering for sale, delivering, giving away,
25 prescribing or administering any drug, medicine, compound or device, including but not limited
26 to the PAP-IMI device, to be used in the diagnosis, treatment, alleviation, or cure of cancer
27 unless in compliance with Health and Safety Code section 109250 et seq.;

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e. Falsely representing with the intent to defraud, or providing for compensation with the intent to defraud, a device, substance, method or treatment, including but not limited to the PAP-IMI device, as effective to diagnose, arrest, prevent or cure cancer as prohibited by Health and Safety Code section 109365;

f. Selling, delivering or giving away any new drug or device, including but not limited to the PAP-IMI device, unless in compliance with Health and Safety Code section 111550 et seq. (*New Drugs or Devices*);

g. Receiving in commerce any drug or device, including but not limited to the PAP-IMI device, that is misbranded, or delivering or proffering for delivery any misbranded drug or device, in violation of Health and Safety Code section 111450;

h. Altering, mutilating, destroying, obliterating or removing the label or any part of the labeling of any drug or device, including but not limited to the PAP-IMI device, if the act results in the drug or device being misbranded in violation of Health and Safety Code section 111455;

i. Advertising any food, drug, cosmetic or device, including but not limited to the PAP-IMI device, that is adulterated or misbranded in violation of Health and Safety Code section 110398;

j. Engaging in the sale or delivery of an unapproved new device, including but not limited to the PAP-IMI device, without full compliance with the Federal Food Drug and Cosmetic Act including Sections 510(k) and 515;

k. Selling, delivering or giving away any unapproved new drug, including but not limited to pulsed or energized water, without full compliance with Sections 355 and 505 of the Federal Food, Drug and Cosmetics Act.

MONETARY RELIEF

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2 4. Defendants are jointly and severally ordered to pay the sum of \$9,750 to
3 the District Attorney for the County of Los Angeles. Of that amount, \$2750 represents civil
4 penalties pursuant to Business and Professions Code sections 17206 and 17536. The balance of
5 \$7000 represents legal and investigative costs and shall be apportioned as follows: \$5,000
6 represents investigative costs incurred by the State of California, Department of Health Services,
7 Food and Drug Branch, and \$2000 represents investigative costs incurred by the U. S. Food and
8 Drug Administration and shall be paid to those agencies through the Los Angeles County District
9 Attorney's Office. The sums set forth in this paragraph shall be paid upon the following terms
10 and conditions:

13 a. At the time of entry of this Final Judgment, defendants shall make
14 an initial installment payment of \$2000 which shall be paid by certified or cashier's check made
15 payable to the District Attorney of the County of Los Angeles.
16

17 b. The balance of \$7750 shall be paid in equal monthly installments
18 of \$750 each, the first due on or before January 1, 2006, and each subsequent payment shall be
19 due on the 1st day of each month thereafter until the balance is paid in full.
20

21 c. All payments made pursuant to this paragraph shall be made by
22 certified or cashier's check and mailed or delivered to the attention of Leslie Hanke, Deputy
23 District Attorney, Office of the District Attorney, Consumer Protection Division, 201 North
24 Figueroa Street, Suite 1200, Los Angeles, California 90012.

25 d. In the event of default by the defendants on any of the payments
26 described in paragraph 4 above, including any payment that is more than ten (10) business days
27 past due, the balance shall become due and payable and shall incur interest at the legal rate from
28

1 the date of such default. Plaintiff shall be entitled to reasonable fees and costs incurred in
 2 collecting any payments due and owing subsequent to such default.
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5 COMPLIANCE

6 5. Defendants shall deliver a copy of this Final Judgment to all officers,
 7 directors, managers, agents and representatives of the defendants within ten (10) days of the
 8 entry of this Judgment. Defendants shall also deliver a copy of this Judgment to all advertising,
 9 marketing, training, sales and leasing personnel.
 10

11 6. Defendants shall permit duly authorized representatives of the plaintiff, at
 12 reasonable times and places, and without interference of any kind, to interview agents, servants,
 13 employees, or representatives of defendants, or any of them, regarding any matter contained in
 14 this Final Judgment issued by this Court. Nothing in this paragraph shall be deemed or
 15 interpreted to limit the State of California, Department of Health Services, from exercising its
 16 statutory and administrative powers.
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18 7. Service upon the defendant Gerald A. Anderson shall constitute sufficient
 19 and complete notice of the terms of this Final Judgment and Injunction.
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21 8. This Final Judgment shall take effect upon entry thereof.

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RETENTION OF JURISDICTION

9. Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary and appropriate for the construction or carrying out of this Final Judgment, for the enforcement of compliance herewith, or for the punishment of violations thereof.

Dated: _____, at Los Angeles, California.

Judge of the Superior Court
County of Los Angeles

FILED

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DECLARATION OF GERALD A. ANDERSON

I, GERALD ALLEN ANDERSON, also known as JERRY A. ANDERSON, do hereby declare under penalty of perjury that the following is true and correct:

- 1. I understand the charges and allegations against me as described in the Complaint for Injunction, Civil Penalties and Other Relief in Case No. BC338072.
- 2. I am over the age of 18 years and wish to proceed with the case without the representation of an attorney.
- 3. I understand my civil due process rights to have notice, a hearing, and a trial as to the charges and allegations against me. I also understand my right to present defenses against such charges and allegations. Understanding these rights and the opportunity to defend, I voluntarily, knowingly, and intelligently, and without admitting liability, waive these due process rights on my behalf.

Executed in Ocean View, HAWAII
(City) (State)
on November 28, 2005.


GERALD ALLEN ANDERSON

DECLARATION OF GERALD A. ANDERSON

Ex B