

certified Class. Defendants International Medical Research, Inc. and Sophie Chen failed to appear at trial and no attorney appeared on their behalf.

After trial and consideration of all of the evidence submitted and argument of counsel, the Court finds and rules as follows:

1. Plaintiff David Mittleholtz is a PC Spes consumer who was a victim of the deceptive, unfair and unlawful business practices of defendants International Medical Research, Inc. dba BotanicLab (“IMR”) and Sophie Chen (collectively the “IMR Defendants”). Between October 2000 through November 2001, David Mittleholtz purchased 24 bottles of PC Spes directly from IMR and paid IMR a total of \$2,554.48 for these purchases.

2. Plaintiff David Mittleholtz seeks disgorgement and restitution of the amounts paid for PC Spes by himself and the other members of the Class. The certified Class is defined as all consumers nationwide who purchased PC Spes between February 7, 1998 and February 7, 2002 (“Class Period”), which is the date when the California Department of Health Services (“CDHS”) shut down the IMR manufacturing facility.

3. From 1996 to 2002, the IMR Defendants produced, marketed, distributed, and sold a Chinese powder as a treatment for prostate cancer entitled, PC Spes, which they represented on the label to be a safe, all-natural, non-toxic, herbal dietary supplement. Sophie Chen was the founder, principal officer and control person of IMR who knowingly participated in and ratified the conduct of IMR. Sophie Chen was personally responsible for the formulation and testing of PC Spes and substantially assisted IMR in the conduct described below.

4. Contrary to the IMR Defendants representations, PC Spes was not all-natural, was not all herbal, was not a dietary supplement, and was in fact a very dangerous product adulterated with chemicals, including the female estrogen (DES) and the active ingredient in rat poison (Warfarin). The inclusion of DES and Warfarin in PC Spes violates both state and federal law.

5. The laboratory testing of PC Spes performed in 1998, 1999, 2000, 2001, 2002, without exception, showed that every batch of PC Spes unlawfully contained dosage levels of the synthetic chemicals DES and Warfarin, as well as Indomethacin and Ethinyl Estradiol. The IMR

1 Defendants failed to adequately test PC Spes for these chemicals or perform any quality control, even
2 though IMR and Sophie Chen received warnings of the presence of DES and Warfarin as least as
3 early as 1998.

4 6. PC Spes was intentionally adulterated with DES, Warfarin, Indomethacin and/or
5 Ethinyl estradiol by the IMR Defendants and was not contaminated by accident. The results from
6 independent laboratory testing indicate that PC Spes was intentionally being tailored to be a
7 treatment for prostate cancer. In light of the particular synthetic drugs that tainted PC Spes, it is not
8 credible that chemicals (DES, ethinyl estradiol and indomethacin) with pharmacological properties
9 so relevant to prostate cancer therapy should appear together in PC Spes randomly. This adulteration
10 of PC Spes was also admitted in IMR's Felony Plea as documented by the California Department
11 of Health Services ("CDHS"), and verified through independent laboratory testing.

12 7. IMR recalled "all lots" of PC Spes and promised a full refund. Yet, there is no
13 evidence that any refunds were paid to Plaintiff or the Class for their purchases of PC Spes.

14 8. The IMR Defendants set about to systematically loot and denude IMR of its assets
15 while IMR was insolvent or within the zone of insolvency while the PC Spes scheme was carried
16 out. At a time when IMR was substantively insolvent, more than \$6,908,130.00 in IMR assets were
17 transferred to IMR's shareholders, officers and directors. Of these asset transfers, \$2,879,367.00 in
18 transfers were made to and/or benefitted Sophie Chen.

19 9. The Class Members, including Class Plaintiff, are entitled to restitution of all monies
20 paid to the IMR Defendants for the purchase of PC Spes. The business records of IMR show there
21 are over twelve thousand of Class Members who collectively purchased over 200,000 bottles of PC
22 Spes that were sold before these products were taken off the market by the CDHS and all lots were
23 recalled. As a result of their conduct, IMR and Sophie Chen acquired at least \$24,465,614 from the
24 sale of PC Spes across the Class Period to the Class and are jointly and severally liable for the
25 disgorgement and restitution of this amount to the Plaintiff and the Class.

26 10. The Court therefore finds that the conduct of IMR and Sophie Chen in connection
27 with the formulation, marketing, distribution and sale of the product entitled PC Spes was unlawful,
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1 unfair and deceptive, and therefore violated Cal. Business & Professions Code § 17200. As a result,
2 under Business & Professions Code § 17203, the Court orders the disgorgement of all money
3 acquired from the sale of PC Spes during the Class Period and orders that such money be restored
4 to the members of the Class.

5 11. The Court further finds that the conduct of IMR and Sophie Chen in connection with
6 the formulation, marketing, distribution and sale of the product entitled PC Spes violated Cal. Civil
7 Code § 1770(a), subsections (5), (7), (9), (14), and (16). As a result, under Civil Code § 1780, the
8 Court orders the disgorgement of all money acquired from the sale of PC Spes during the Class
9 Period and orders that such money be restored to the members of the Class.

10 12. The Court further finds that the transfers of IMR assets were fraudulent within the
11 meaning of Civil Code § 3439.04 because the transfers were made (1) with actual intent to defraud
12 the Plaintiff and the Class as creditors of IMR, (2) without receiving a reasonably equivalent value
13 in exchange for the transfer, and IMR was engaged in a business for which the remaining assets of
14 IMR were unreasonably small in relation to the business and IMR reasonably should have believed
15 that IMR would incur debts beyond IMR's ability to pay as they became due. As a result, the Court
16 orders restitution of all IMR assets transferred from IMR and all IMR assets transferred to Sophie
17 Chen or entities controlled by Sophie Chen in accordance with Civil Code § 3439.07(a)(1).

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19 Dated: AUG 08 2007

JOHN S. MEYER

20 THE HONORABLE JOHN S. MEYER
21 JUDGE OF THE SUPERIOR COURT
22 FOR THE COUNTY OF SAN DIEGO
23 STATE OF CALIFORNIA
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