

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 1:10-cv-1362-EGS
DANIEL CHAPTER ONE,)	
)	
and)	
)	
JAMES FEIJO,)	
)	
Defendants.)	
_____)	

DECLARATION OF JAMES FEIJO

1. My name is James Feijo. Since October 30, 2002, I have served as Overseer of Daniel Chapter One (hereinafter "DCO"), a nonprofit religious corporation sole under the laws of the State of Washington, dedicated to the promotion of the Kingdom of God¹ here on earth with its principal office at 1028 East Main Road, Portsmouth, Rhode Island 02871. As Overseer of DCO, I am a Christian dedicated to forwarding the Kingdom principles of spiritual and physical wellness under the banner of Jesus Christ our savior and our healer² and in accordance with God's word.³ DCO and I are Defendants in the above-captioned matter.

2. On August 13, 2010, the Government filed a motion for preliminary injunction to enjoin DCO and James Feijo from violating Parts II and V.B of a Modified Final Order ("Order")

¹ Matthew 6:33; Mark 1:4; Luke 4:4, John 3:3, and Acts 1:3.

² See Isaiah 53:4-5 and 1 Peter 2:24.

³ Exodus 15:26.

issued by the Federal Trade Commission (“FTC”) on January 25, 2010. With respect to Part II, the Government has charged DCO and James Feijo of having violated the Order by promoting DCO products as “cures for cancer and other tumors without reliable scientific evidence substantiating their claims.” With respect to Part V.B, the Government has charged DCO and James Feijo of having violated the Order by “ignor[ing]” its mandate that requires DCO and James Feijo send a “corrective notice ... to past purchasers.” *See Revised Memorandum in Support of United States’ Motion for Preliminary Injunction*, p. 1.

3. This Declaration is submitted in opposition to the Government’s motion and in support of Defendants’ affirmative defense that enforcement of Parts II and V.B of the FTC Modified Final Order (“Order”) would “substantially burden” DCO’s exercise of religion in violation of the Religious Freedom Restoration Act (“RFRA”) (42 U.S.C. sections 2000bb-1, *et seq.*).

4. Beginning in 1983, and inspired by the first chapter of Daniel, my wife, Patricia, and I were called by God to a “watchman” ministry (Ezekiel 3:17). Initially, we understood God’s call to be a world-wide ministry to churches in various countries, bringing God’s message of saving grace and natural healing, alongside a warning to God’s people against deception. In 1986, God impressed us to redirect our ministry efforts to the United States and to augment our educational message by opening a health food store to meet the physical needs of people through offering dietary supplement products derived from God’s creation (Genesis 1:29) and, at the same time, to supply an income stream from the sales of such products to support the U.S. ministry as well as house churches abroad.

5. Through the skills, training, and spiritual gifts, my wife and I developed DCO’s

product line — including BioMixx, BioShark, 7 Herb Formula, and GDU — as an alternative to the toxic pharmaceutical drugs utilized in conventional medicine. Relying on God’s word and individual testimonies concerning the effectiveness of these and other products, DCO has promoted their sale on the Internet and, beginning in 2000, through a Monday through Friday, two-hour-per-day radio program entitled “Daniel Chapter One Health Watch,” which is financed by DCO product sales.

6. Co-hosted by my wife and myself, the radio program offered integrated spiritual and physical counseling on salvation, healing, and well-being, as well as a toll-free telephone number that people could call to purchase DCO products. Regularly, we counseled people who call in, sharing the gospel message of salvation and the individual testimonies of persons who have been helped by DCO’s various products. Additionally, we regularly warned our radio audience, as well as others, of the dangers of conventional medicine, including chemotherapy and radiation for cancer patients. We also alerted the people to beware the actions and propaganda of various government agencies, including the Food and Drug Administration (“FDA”), which, because of prejudice and ignorance, falsely report that nutritional supplements and herbal remedies, and other like alternatives, are worthless or dangerous.

7. On September 18, 2008, the FTC filed a complaint charging DCO and myself with having made deceptive health claims in connection with tumors and cancer, not on the ground that such claims were, in fact, false, but on the ground that we had no “reasonable basis” for those claims. After we demonstrated through expert witnesses that there was a reasonable basis for our claims, the FTC ruled that — since our claims concerned the health benefits of our products — our claims were required to meet the higher standard of “competent and reliable

scientific evidence.” And, because our health claims concerned tumors and cancer, the FTC ruled that our claims were required to meet an even higher standard — “controlled clinical studies” as required by the FDA for new pharmaceutical drugs.

8. On January 25, 2010, the FTC entered an Order, Part II of which prohibits DCO and me from making any representation, implied or express, that any DCO product “prevents, treats, or cures or assists in the prevention, treatment, or cure of any type of tumor or cancer ... unless the representation is true, nonmisleading, and at the time that it was made, [DCO and James Feijo] possess and rely upon competent and reliable scientific evidence that substantiates the representation.”

9. Additionally, Part V.B of the January Order requires DCO and Feijo to mail to all consumers who purchased one or more of four named products on or after January 1, 2005 to the date of service of the Order, an “exact copy” of an FTC-composed letter and envelope. The envelope must show DCO’s address as the return address, and the letter must be printed on DCO letterhead and must state that the FTC has: (i) found that DCO’s ads were “deceptive because there were not substantiated by competent and reliable scientific evidence”; and (ii) “issued an Order prohibiting DCO making these claims in the future.” Additionally, the letter must advise that DCO is “required to send ... the following information from the FTC about the scientific evidence on these products”:

- There is no “scientific evidence” that any of the ingredients in [the four challenged products] are effective when used for prevention, treatment or cure of cancer.
- It is important that you talk to your doctor or health care provider before using any herbal product

- Some herbal products may interfere or affect your cancer or other medical treatment, may keep your medicines from doing what they are supposed to do, or could be harmful when taken with other medicines
- It is also important that you talk to your doctor or health care provider before you decide to take any herbal product instead of taking cancer treatments that have been scientifically proven to be safe and effective in humans.

10. Believing that I could not obey either of these mandates — or even the Order as a whole — without disobeying God’s call on my life, DCO and I filed a petition for review of the legality and constitutionality of the January 25, 2010 Order in the United States Court of Appeals for the District of Columbia Circuit. In connection with this petition, DCO and I applied to the FTC for a stay of the Order pending the outcome of our petition for review. The application was denied. DCO and I then filed a motion for an emergency stay with the court of appeals before which the petition for review was pending. That motion was denied. On April 2, 2010, the FTC Order became effective. At that point I came face to face to the question: Do I obey God, or do I obey men.⁴

11. With respect to Part V.B of the Order, there was no question. I just knew that I could not send the FTC-composed letter without turning my back on God’s call on my life to be a watchman,⁵ and without breaking faith with the people to whom we had ministered. Although the letter states that I am only sending “information from the FTC about the scientific evidence of these products,” the letter is not so limited. Instead, the entire last paragraph of the letter is devoted to **counseling** in connection with the use of herbal products generally, not just DCO

⁴ See Acts 4:18-20.

⁵ See Ephesians 2:10 (“For we are God’s workmanship, created in Christ Jesus to do good works which God prepared in advance for us to do.”) (NIV).

products. Additionally, the counseling offered is exclusively secular, with absolutely no reference to God or to any spiritual matters. Instead, the letter affirms the FTC's apparent belief in "conventional cancer treatments," directly contrary to the message that I believe God has given to me and that I have proclaimed publicly and declared in one-on-one counseling. To sign the letter would be to lie and betray the trust placed in me by those who have purchased DCO products and listened to our radio program. The letter's mandate would place a burden upon me analogous to the burden that would have been placed upon Christ's apostles if Pilate would have required them to carry a banner before the people containing the message of the Pharisees.

12. My struggle with Part II (as well as Part III) of the Order was no less agonizing and soul-searching. As was true for Ezekiel, God's watchman, so it is for me. I must warn the people against the danger and evil of conventional medicine and toxic pharmaceuticals,⁶ and speak the truth of God's healing power in the nutrients that He has given us. I cannot make the choice for them, but must speak boldly and uncompromisingly so that the people can make an informed choice. If I don't speak, then I am "accountable" to God for having failed as a watchman.⁷ However, I am only to speak those things that God would have me speak. Insofar as Part II of the Order commands me to speak the truth, and not to mislead, I would readily accede. And in light of my Christian duty to "submit" to the civil authorities,⁸ I can refrain from speaking fully so as to allow those authorities to determine whether they have the right to stop me from

⁶ The word of God, itself, warns about "pharmakeia" as being like "sorceries" or "witchcraft." See Revelation 9:21 and 18:23 and Abingdon's Strong's Exhaustive Concordance of the Bible, p. 958 (No. 5331 in the Greek Dictionary of the New Testament) (1890).

⁷ See Ezekiel 3:17-18.

⁸ See 1 Peter 2:13-14.

speaking. On a permanent basis I cannot obey Part II insofar as it requires that I, “at the time” I make the statement, “possess and **rely** on” what the government believes to be “competent and reliable scientific evidence.” To rely on the opinions of men, no matter how empirically based, would directly contradict my commitment to rely only upon the leading of the Holy Spirit of the Living God. To obey permanently Part II of the Order, unmodified, would, thus, be tantamount to a change of allegiance from God’s revelation to man’s reason, in direct contradiction to my Christian faith.⁹

13. Since January 25, 2010, when the FTC issued its Modified Final Order, I have sought God’s leading through prayer and godly counsel, asking the question whether I should just shut down DCO, or shut down the radio show, or change DCO’s mission in such a way as to cease distribution of dietary supplements and herbal products altogether. Each time that I have considered not continuing with DCO’s original mission, my heart was so filled with God’s message that I could hardly contain myself.¹⁰ Nonetheless, pending our petition for review in the court of appeals, I have — after much agony and prayer — agreed to dramatic changes in the ministry to comply with the FTC Order, as more specifically discussed in the Declaration submitted by my wife, Patricia Feijo. Yet, even these steps have not satisfied the FTC.

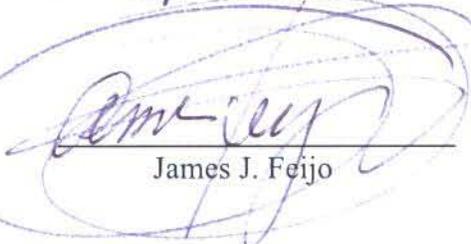
⁹ See Matthew 16:1-12.

¹⁰ See Jeremiah 20:9 (“But if I say, ‘I will not mention him or speak any more in his name,’ his word is in my heart like a fire, a fire shut up in my bones. I am weary of holding it in; indeed, I cannot.”)

14. As the Bible teaches — “God’s gifts and call are irrevocable.”¹¹ If this means that I lose all worldly goods and liberty, so be it. I can do no less in service to my Lord and Savior — Yahweh Elohim.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed this 31 day of August, 2010



James J. Feijo

¹¹ See Romans 11:29.