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# ULLMAN, SHAPIRO & ULLMAN, LLP

299 Broadway, Suite 1700

New York, NY 10007

(212) 571-0068

(212) 571-9424 (fax)

## FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: 202-225-1919

To: Hon. W. J. "Billy" Tauzin, Chairman  
Of: U.S. House of Representatives  
From: Marc S. Ullman, Esq.  
Client/Matter: 159.01  
Date: May 21, 2003

DOCUMENTS	NUMBER OF PAGES
	8

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Occhifinto, President; David C. Caldwell, General Counsel (Law Department); Judith O'Brien, Paralegal (Law Department); Karen Finnochio, former Director of Marketing.

- 7. Please identify each person responsible for responding to any adverse event related complaint. Identify their training and/or qualifications for doing so.

Response: Please see response to number 6. These individuals received no special training. However, they were selected because NVE believed they possessed good communication skills, good judgment and professionalism. These individuals never give (or gave) medical advice or directions to any customers or inquirers. Complainants or inquirers are (and were) routinely told to consult with their physician or to go to an emergency room, for answers to medical questions or if their symptoms warranted.

- 8. What is the company policy for determining whether a consumer complaint warrants a refund of the product purchase price? Is there any written policy?

Response: Because of numerous product returns in the past, that NVE believed was unwarranted, the following refund policy was adopted. (It was recently removed from the NVE's product labels, but still appears on its invoices):

**RETURN POLICY:** NVE will only provide a refund on any unopened product. Any opened product returned to N.V.E. Pharmaceuticals WILL NOT be credited, accepted or exchanged. If opened product is received it will be destroyed. All products must be returned to the original place of purchase. Items must be returned via commercial carrier or the U.S. Post Office accompanied by an invoice from NVE at the customer's expense within 30 days from the date of purchase. Failure to follow these instructions will result in forfeiture of any refund. A refund is only provided on a special protection if special is returned complete. If not complete you will receive a prorated refund on unopened product.

Notwithstanding its refund policy, NVE's practice has been to make exceptions and provide refunds to customers who demonstrate that they have substantive complaints.

Refunds are rarely, if ever, sought for NVE's Stat 2 and Stat 3 products because

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direct customer order to give the customer an opportunity to try the product at no cost before opening the purchased product and, thereby, reserve their right to a refund. (Please see free trial sample notice, attached hereto as Exhibit A.)

9. As to the levels of ephedra and caffeine in NVE's products, has this level ever changed? If yes provide the details and reasons for such a change.

**Response:** No.

10. As to your reliance on the OTC monograph for establishing the formula for ephedra containing products, please describe how you did this.

**Response:** NVE adopted the ephedrine levels used in the OTC monograph for its ephedra containing products.

11. Have you ever had any study conducted on any NVE product? If yes, please provide the details.

**Response:** No.

12. Have you ever relied on any outside consultant in connection with any issue concerning any ephedra containing product? If yes, please provide the details.

**Response:** No.

13. Please confirm that you were not involved in any ephedra related litigation prior to the year 2000. If you were, provide the relevant details.

**Response:** NVE was not involved in any ephedra related litigation before 2000.

14. Has a search been done of all electronic communications (such as e-mails) or responsible individuals who may have information concerning ephedra-related adverse events? If not, please do so and produce relevant material.

**Response:** Yes. Relevant material has already been provided to you in an e-mail(s) to my letter of May 5, 2003.

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15. When were ephedra products first introduced by NVE?

Response: Approximately 1995.

16. In addition to ephedra-containing products, what other products does NVE manufacture?

Response:

NVE Products:	Stacker 2 Ephedra Free
Custom Manufactured Products:	Stamina-Rx Stamina-Rx for Women Fat Predator Ephedra Free Uroprin Spontane-ES Vigor-Rx SIGRA Betterman

17. Has NVE ever marketed any product other than Yellow Jackets with a street drug name?

Response: NVE asserts that it has never named or marketed a product – including Yellow Jacket or Black Beauty – which it knew or believed mimicked a street drug. NVE further believes that it should be noted that the slang or street drug named “yellow jacket” is a barbiturate, a depressant, while NVE’s Yellow Jacket was an herbal energy supplement

It should be pointed out that when it became clear to NVE that others were inappropriately marketing (i.e. misusing) it’s Yellow Jacket and Black Beauty products as street drug alternatives, NVE voluntarily ceased manufacturing and distributing these products.

NVE’s lists of products are contained in Exhibit 1 to my letter dated May 5, 2003 and in answer to question 16 above.

18. Please provide a privilege log of any material withheld pursuant to a claim of privilege.

Response: Not applicable. Please see response to question number 14. The following e-mail communications were withheld:

- June 4, 2002 work product communication within Law Department
- September 10, 2002 work product communication within Law Department

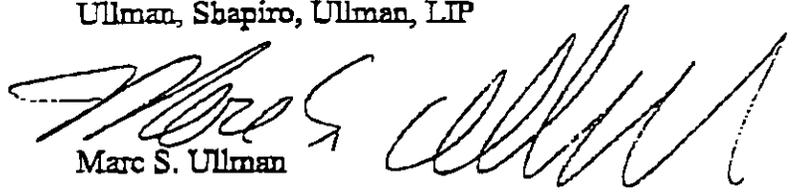
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- September 10, 2002 communication from Law Department to President of NVE

If you have additional questions please direct them to the undersigned.

Very truly yours,  
Ullman, Shapiro, Ullman, LLP



Marc S. Ullman