

DAVID C. SHONKA
Acting General Counsel

ANGELEQUE P. LINVILLE, Tex. Bar No. 24058793
JASON C. MOON, Tex. Bar No. 24001188
ZACHARY A. KELLER, Tex. Bar No. 24087838
ANNE D. LEJEUNE, Tex. Bar No. 24054286
Federal Trade Commission
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
(404) 654-1354; alinville@ftc.gov (Linville)
(214) 979-9378; jmoon@ftc.gov (Moon)
(214) 979-9382; zkeller@ftc.gov (Keller)
(214) 979-9371; alejeune@ftc.gov (LeJeune)
Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff;

v.

Vemma Nutrition Company, et al.,

Defendants.

No. CV-15-01578-PHX-JJT

**JOINT MOTION TO STAY
PROCEEDINGS AND
MODIFY PRELIMINARY
INJUNCTION PENDING
FINAL ORDER**

Plaintiff Federal Trade Commission (“FTC”) files this Joint Motion to Stay Proceedings and Modify Preliminary Injunction Pending Final Order on behalf of the FTC and Defendants Vemma Nutrition Company and Vemma International Holdings, Inc. (together, the “Corporate Defendants”), Benson K. Boreyko, and Tom Alkazin, and

Relief Defendant Bethany Alkazin. The parties request that the Court stay all pending deadlines contained in the Scheduling Order in this matter (Doc. 177) for sixty days, and modify the Preliminary Injunction (Doc. 118) to revise the Corporate Defendants' and Defendant Benson K. Boreyko's quarterly report and disclosure requirements, in order to provide the Commission sufficient time to review and vote on proposed stipulated final orders.

In support of this Joint Motion, and to show good cause, the parties state:

1. The Corporate Defendants and Defendant Benson K. Boreyko have signed a Stipulated Order for Permanent Injunction and Monetary Judgment. Defendant Tom Alkazin and Relief Defendant Bethany Alkazin have signed a separate Stipulated Order for Permanent Injunction and Monetary Judgment. The undersigned counsel for the Plaintiff will recommend the Stipulated Orders to the full Commission.
2. Under 15 U.S.C. § 56(a)(2)(A), exclusive authority to agree to a settlement rests with the presidentially appointed Commission. The Commission must approve or reject all settlement recommendations by a majority vote. Therefore, before the Stipulated Orders can be submitted to the Court for approval and issuance, the Commissioners must vote to accept them.
3. In order to provide time for Commission approval, the parties move to stay all pending motions and all discovery, dispositive motion, pretrial, and trial deadlines for sixty days.

4. The parties further move to suspend the Corporate Defendants and Defendant Boreyko's quarterly disclosure requirements to the FTC (Doc. 118, Section V(A), p. 24) until further notice from the FTC.

5. Finally, the parties move to defer the Corporate Defendants' quarterly report requirements (Doc. 118, Section V(B), p. 25) until December 15, 2016. The December report will cover all business activities since the Corporate Defendants' June 2016 report.

6. The parties have submitted to the Court a proposed Order reflecting these requests.

Dated: September 6, 2016.

Respectfully submitted,

For Plaintiff Federal Trade Commission:

Dated: 9/6/16

/s/ Jason C. Moon

DAVID C. SHONKA
General Counsel
ANGELEQUE P. LINVILLE, Tex. Bar No. 24058793
JASON C. MOON, Tex. Bar No. 24001188
ZACHARY A. KELLER, Tex. Bar No. 24087838
ANNE D. LEJEUNE, Tex. Bar No. 24054286
Federal Trade Commission
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
(404) 656-1354; alinville@ftc.gov (Linville)
(214) 979-9378; jmoon@ftc.gov (Moon)
(214) 979-9382; zkeller@ftc.gov (Keller)
(214) 979-9371; alejeune@ftc.gov (LeJeune)
(214) 953-3079 (Fax)
Counsel for Plaintiff Federal Trade Commission

**For Defendants Vemma Nutrition Company
and Vemma International Holdings, Inc.:**

Dated: 9/6/16 */s/ Edward Salanga*

Edward Alipio Salanga
Quarles & Brady LLP
esalanga@quarles.com
*Counsel for Vemma Nutrition Company and
Vemma International Holdings, Inc.*

For Defendant Benson K. Boreyko:

Dated: 9/6/16 */s/ Lindsy Weber*

Lindsy Weber
Gallagher & Kennedy PA
lindsyweber@gknet.com
Counsel for Benson K. Boreyko

**For Defendant Tom Alkazin
and Relief Defendant Bethany Alkazin:**

Dated: 9/6/16 */s/ Keith Beauchamp*

Keith Beauchamp
Coppersmith Brockelman PLC
kbeauchamp@cblawyers.com
Counsel for Tom and Bethany Alkazin

CERTIFICATE OF SERVICE

I certify that on September 6, 2016, Plaintiff Federal Trade Commission electronically transmitted the attached Document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Filing to all CM/ECF registrants including:

Counsel for Defendants Vemma Nutrition Company and Vemma International Holdings, Inc.:

Quarles & Brady LLP
Edward Alipio Salanga -
esalanga@quarles.com

John Anthony Harris -
john.harris@quarles.com

Kevin Duffy Quigley -
kquigley@quarles.com

Counsel for Defendants Tom and Bethany Alkazin:

Coppersmith Brockelman PLC
Keith Beauchamp -
kbeauchamp@cblawyers.com

Marvin Christopher Ruth -
mruth@cblawyers.com

Counsel for Receiver Robb Evans & Associates, LLC:

Dentons US LLP
Gary Owen Caris -
gary.caris@dentons.com

Lesley Anne Hawes -
lesley.hawes@dentons.com

Joshua S. Akbar -
joshua.akbar@dentons.com

Counsel for Defendant Benson K. Boreyko:

Gallagher & Kennedy PA
John R. Clemency -
john.clemency@gknet.com

Lindsay Michelle Weber -
lindsay.weber@gknet.com

/s/ Jason C. Moon

Jason C. Moon

DAVID C. SHONKA
Acting General Counsel

ANGELEQUE P. LINVILLE, Tex. Bar No. 24058793
JASON C. MOON, Tex. Bar No. 24001188
ZACHARY A. KELLER, Tex. Bar No. 24087838
ANNE D. LEJEUNE, Tex. Bar No. 24054286
Federal Trade Commission
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
(404) 654-1354; alinville@ftc.gov (Linville)
(214) 979-9378; jmoon@ftc.gov (Moon)
(214) 979-9382; zkeller@ftc.gov (Keller)
(214) 979-9371; alejeune@ftc.gov (LeJeune)
Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff;

v.

Vemma Nutrition Company, et al.,

Defendants.

No. CV-15-01578-PHX-JJT

**[proposed] ORDER STAYING
PROCEEDINGS AND
MODIFYING PRELIMINARY
INJUNCTION PENDING
FINAL ORDER**

Upon review of the Joint Motion to Stay Proceedings and Modify Preliminary Injunction Pending Final Order, and good cause appearing,

IT IS ORDERED THAT the Motion is GRANTED. All deadlines in the Court’s Rule 16 Scheduling Order (Doc. 177), as well as all pending motions and discovery, are

stayed for sixty days from the date of this Order to permit the Federal Trade Commission the opportunity to review and vote on proposed stipulated final orders. In addition, the Preliminary Injunction in this matter (Doc. 118) is modified only insofar as the quarterly disclosure requirements set forth in Section V(A) are suspended until further notice from the FTC, and the quarterly report requirements set forth in Section V(B) are deferred until December 15, 2016. The December 15, 2016 report shall cover all business activities since the Corporate Defendants' June 2016 report.

IT IS SO ORDERED.

truth

inadvertising.org®