

1 JONATHAN E. NUECHTERLEIN  
2 General Counsel

3 ROSEMARY ROSSO (NY 1729730)  
4 rosso@ftc.gov  
5 PAUL SPELMAN (MD 200712120300)  
6 pspelman@ftc.gov  
7 Federal Trade Commission  
8 600 Pennsylvania Avenue, NW  
9 Washington, D.C. 20580  
10 Tel: 202-326-2174, -2487  
11 Fax: 202-326-3259

12 MARICELA SEGURA (CA Bar No. 225999)  
13 msegura@ftc.gov  
14 Federal Trade Commission  
15 10877 Wilshire Boulevard, Suite 700  
16 Los Angeles, CA 90024  
17 Tel: 310-824-4343  
18 Fax: 310-824-4380

19 **UNITED STATES DISTRICT COURT**  
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 FEDERAL TRADE COMMISSION,  
22 Plaintiff,

23 v.

24 KEYVIEW LABS, INC.,  
25 BRAIN RESEARCH LABS, LLC,  
26 20/20 BRAIN POWER PARTNERS, LLC,  
27 20/20 BRAIN POWER FOUNDERS, LLC,  
28 MEDHEALTH DIRECT, INC.,  
GEORGE REYNOLDS, a/k/a Josh  
Reynolds or Joshua Reynolds, and  
JOHN ARNOLD,  
Defendants.

Docket No. 8:15-cv-1047

**COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF**

1 Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), for its  
2 Complaint alleges:

3 1. The FTC brings this action under Section 13(b) of the Federal Trade  
4 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive  
5 relief, rescission or reformation of contracts, restitution, the refund of monies  
6 paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’  
7 acts or practices, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§  
8 45(a) and 52, in connection with the labeling, advertising, marketing, distribution,  
9 and sale of Procera AVH, a dietary supplement that purportedly improves  
10 memory, focus, mental clarity, and cognition.

11 **JURISDICTION AND VENUE**

12 2. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§  
13 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

14 3. Venue is proper in this district under 28 U.S.C. § 1391(b), (c), and  
15 (d), and 15 U.S.C. § 53(b).

16 **PLAINTIFF**

17 4. Plaintiff FTC is an independent agency of the United States  
18 Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section  
19 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or  
20 practices in or affecting commerce. The FTC also enforces Section 12 of the FTC  
21 Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices,  
22 services, or cosmetics in or affecting commerce.

23 5. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes the FTC  
24 to initiate federal district court proceedings, by its own attorneys, to enjoin  
25 violations of the FTC Act and to secure such equitable relief as may be  
26 appropriate in each case, including rescission or reformation of contracts,  
27 restitution, the refund of monies paid, and the disgorgement of ill-gotten monies.

1 **DEFENDANTS**

2 6. Defendant Brain Research Labs, LLC (“BRL”) is a Delaware limited  
3 liability company. BRL’s principal place of business is or was 604 W. Raven La.,  
4 Spokane, WA 99224. BRL was registered to do business and conducted business  
5 in California, with a registered address located at 1492 N. Coast Highway, Suite  
6 C, Laguna Beach, CA 92851. BRL transacts or has transacted business in this  
7 district and throughout the United States. At times material to this Complaint,  
8 acting alone or in concert with others, BRL has labeled, advertised, marketed,  
9 distributed, or sold Procera AVH to consumers throughout the United States.

10 7. Defendant KeyView Labs, Inc. (“KeyView”) is a Delaware  
11 corporation. KeyView’s principal place of business is 5737 Benjamin Center Dr.,  
12 Tampa, FL 33634. Key View is or was registered to do business in California.  
13 KeyView transacts or has transacted business in this district and throughout the  
14 United States. On or around December 28, 2012, KeyView purchased the assets  
15 of Defendant BRL. KeyView is the owner of the intellectual property used in the  
16 labeling, advertising, marketing, distribution, and sale of Procera AVH. At least  
17 since January 2013, acting alone or in concert with others, KeyView has labeled,  
18 advertised, marketed, distributed, or sold Procera AVH to consumers throughout  
19 the United States.

20 8. Defendant 20/20 Brain Power Partners, LLC (“Partners”) is a  
21 California limited liability company with its principal place of business at 1100 S.  
22 Coast Highway, Suite 221, Laguna Beach, CA 92651. Partners owns or owned  
23 fifty percent of Defendant BRL. Partners commissioned a clinical study of  
24 Procera AVH that is featured in advertisements and promotional materials for  
25 Procera AVH, and participated in the review of the results of that study. Partners  
26 transacts or has transacted business in this district and throughout the United  
27 States. At times material to this Complaint, acting alone or in concert with others,  
28 Partners has formulated, directed, controlled, had the authority to control, or

1 participated in the acts and practices set forth in this Complaint.

2 9. Defendant 20/20 Brain Power Founders, LLC (“Founders”) is a  
3 California limited liability company with its principal place of business at 1100 S.  
4 Coast Highway, Suite 221, Laguna Beach, CA 92651. Founders is or was the  
5 majority owner of Defendant Partners, with a fifty-three percent ownership  
6 interest. Founders transacts or has transacted business in this district and  
7 throughout the United States. At times material to this Complaint, acting alone or  
8 in concert with others, Founders has formulated, directed, controlled, had the  
9 authority to control, or participated in the acts and practices set forth in this  
10 Complaint.

11 10. Defendant MedHealth Direct, Inc. (“MedHealth”) is a California  
12 corporation with its principal place of business at 1100 S. Coast Highway, Suite  
13 221, Laguna Beach, CA 92651. MedHealth provides or provided support services  
14 to Defendants BRL and KeyView, including the creation, review, and approval of  
15 advertising and marketing materials, and, at least with respect to BRL, assisting  
16 with call centers and customer support services. MedHealth transacts or has  
17 transacted business in this district and throughout the United States. At times  
18 material to this Complaint, acting alone or in concert with others, MedHealth has  
19 formulated, directed, controlled, had the authority to control, or participated in the  
20 acts and practices set forth in this Complaint.

21 11. Defendant George Reynolds, also known as Josh Reynolds or Joshua  
22 Reynolds (“Reynolds”), is a founder and the Chief Science Officer of Defendant  
23 BRL. He, together with Defendant Arnold, are directors and co-managing  
24 members of Defendant Partners. He and Defendant Arnold are directors, co-  
25 managing members, and the primary and majority owners of Defendant Founders.  
26 Reynolds is the co-developer of the formulation of Procera AVH and, on behalf  
27 of Defendant Partners, commissioned a clinical study of Procera AVH. Reynolds  
28 has or had primary responsibilities for evaluating what advertising and marketing

1 claims could be made for Procera AVH. Reynolds participates or participated in  
2 the development, review, and approval of advertising and promotional materials  
3 for Procera AVH. Reynolds has appeared in advertising and promotional  
4 materials for Procera AVH. At times material to this Complaint, acting alone or  
5 in concert with others, Reynolds has formulated, directed, controlled, had the  
6 authority to control, or participated in the acts and practices set forth in this  
7 Complaint. Defendant Reynolds resides in this district and, in connection with the  
8 matters alleged herein, transacts or has transacted business in this district and  
9 throughout the United States.

10 12. Defendant John Arnold (“Arnold”) is the President of Defendant  
11 MedHealth and its sole officer, director, principal, shareholder, and employee.  
12 Together with Defendant Reynolds, he is director and co-managing member of  
13 Defendant Partners. He and Defendant Reynolds are directors, co-managing  
14 members, and the primary and majority owners of Defendant Founders. Arnold  
15 manages or managed day-to-day operations for Defendant BRL and its advertising  
16 and marketing activities, including assisting with third-party call centers and  
17 advertising placement, and developing marketing campaigns and customer service  
18 support for Procera AVH. Arnold participates or participated in the development,  
19 review, and approval of advertising and promotional materials for Procera AVH.  
20 At times material to this Complaint, acting alone or in concert with others, he has  
21 formulated, directed, controlled, had the authority to control, or participated in the  
22 acts and practices set forth in this Complaint. Defendant Arnold resides in this  
23 district and, in connection with the matters alleged herein, transacts or has  
24 transacted business in this district and throughout the United States.

25 13. At least until January 2013, Defendants BRL, Partners, Founders, and  
26 MedHealth (collectively, “the Brain Research Defendants”) operated as a common  
27 enterprise while engaging in the deceptive acts and practices alleged below. They  
28 have conducted the business practices described below through an interrelated

1 network of companies that have common ownership, managers, business  
2 functions, employees, and office locations. Because the Brain Research  
3 Defendants have operated as a common enterprise, each of them is jointly and  
4 severally liable for the acts and practices alleged below. Defendants Reynolds  
5 and Arnold have formulated, directed, controlled, had the authority to control, or  
6 participated in the acts and practices of the Brain Research Defendants that  
7 constitute the common enterprise.

### 8 COMMERCE

9 14. At all times material to this Complaint, Defendants have maintained a  
10 substantial course of trade in or affecting commerce, as “commerce” is defined in  
11 Section 4 of the FTC Act, 15 U.S.C. § 44.

### 12 DEFENDANTS’ BUSINESS ACTIVITIES

13 15. Defendants have labeled, advertised, marketed, distributed, and sold  
14 Procera AVH, a dietary supplement product. According to the product label,  
15 Procera AVH contains acetyl-L-carnitine, vinpocetine, and huperzine A. Procera  
16 AVH is promoted as a solution to memory loss and cognitive decline, especially  
17 age-related memory and cognitive problems.

18 16. Consumers can purchase Procera AVH directly from Defendants,  
19 including through their Internet sites and toll-free call centers. Defendants sell  
20 Procera AVH directly to consumers for \$39.00 to 79.00 per bottle, or \$119.00 for  
21 three bottles, plus shipping and handling. A bottle contains 60 tablets and  
22 provides a 20- to 30-day supply if taken according to the product label (2 or 3  
23 tablets per day). Sales of Procera AVH in the United States from 2006 through  
24 mid-2012, minus refunds and returns, totaled nearly \$60 million. Sales of Procera  
25 AVH in the United States from 2013 through March 2014, minus refunds and  
26 returns, total around \$36 million.

1           17. Defendants have advertised Procera AVH through long-form  
2 television commercials (“infomercials”), short-form television commercials, radio  
3 spots, newspaper ads, direct mail ads, online ads, and other advertising and  
4 promotional materials.

5           18. To induce consumers to purchase Procera AVH, the Defendants have  
6 disseminated, or caused to be disseminated, ads for Procera AVH, including, but  
7 not limited to, the attached Exhibits A through F. These ads contain the following  
8 statements and depictions, among others:

9           **A. Excerpts from Procera infomercial (Transcript attached as Exhibit**  
10           **A; DVD recording submitted as Exhibit A.1) [BRL003298]**

11           DENISE MARIE (Host): We have an incredible show planned for you  
12 today. We’re talking about how you can significantly improve your  
13 memory, mental concentration, focus, mental clarity, and even moods.  
14

15           DAVE RICHARDS (Host): And that’s why it’s my extreme pleasure to  
16 welcome to the broadcast Josh Reynolds, the founder of Brain  
17 Research Labs. Josh is a renowned clinical research scientist in brain  
18 health and fitness. He has many great achievements in the field, from  
19 creating state of the art brain tests and exercises, to conducting clinical  
20 trials on brain pills for large nutraceutical and pharmaceutical  
21 companies. But what we’re most excited to hear about today is his  
22 latest and greatest creation, a breakthrough nutritional formula called  
23 Procera AVH that can help quickly restore focus, concentration, and  
24 even memory, to the levels they were as much as 10 to 15 years ago.  
25  
26  
27  
28

1 ON SCREEN: **Can Help Quickly Restore:**

- 2
- 3 • **Focus**
  - 4 • **Concentration**
  - 5 • **Memory**

6 ...

7 DAVE RICHARDS: Now, Josh, you are an internationally recognized  
8 pioneer in the area of brain health and fitness with over 30 years of  
9 experience in researching the brain.

10 ...

11 JOSH REYNOLDS: What we learned from looking at 1.5 million brains is  
12 that we're seeing something that I think may be an epidemic. What we  
13 saw was the brain was declining up to 50%, that's your memory, your  
14 brain power, up to 50% by the time you reach age 50.

15 ON SCREEN: **50% Memory Loss by Age 50!**

16 ...

17 DAVE RICHARDS: Let's get right to the solution. . . . [I]t doesn't have to  
18 be this way, is that correct?  
19

20 JOSH REYNOLDS: That's absolutely correct. So here's the solution. It's  
21 called Procera, Procera AVH. Procera is a safe, natural, clinically  
22 tested supplement for your brain, that provides the brain the nutrition it  
23 needs so that, and this was clinically proven, you have a better  
24 memory, you remember things faster, you have better focus and recall,  
25 sharper concentration, more mental clarity and it was shown to reverse  
26 mental decline by up to 15 years.  
27

28 ...



1 ON SCREEN: **Regain 10-15 Years of Mental Decline**

2 ...

3 JOSH REYNOLDS: Now, in a landmark clinical study . . . they discovered  
4 that Procera restored the memory power and the recall speed that you  
5 had 10 to 15 years ago. . . .

6 ...

7 ERIC (endorser): . . . Since I've been taking that product, I've noticed a  
8 huge difference in mental clarity and focus. . . . I started noticing  
9 results in the first week. . . . I noticed that my short term memory was  
10 better, my recall of facts came quicker to me.

11 ...

12 ANNOUNCER: Do you struggle to find the right words, answers, or things  
13 to say? Ever feel like you've lost your mental edge? Is your life  
14 overburdened with reminders? Do you get frustrated when you just  
15 can't stay focused on a task? Has remembering names, dates and  
16 details become an embarrassing problem that seems to be getting  
17 worse? It's a fact, as we age, our memory power declines as much as  
18 50% by the time we reach age 50. . . . But it doesn't have to be that  
19 way anymore. There's a natural brain oxygen boosting formula that's  
20 clinically shown to reverse up to 15 years of brain decline. It's called  
21 Procera AVH. And now, you can regain the memory and brain power  
22 you had 15 years ago. . . . Why suffer from brain fog or poor memory  
23 anymore? Do something about it today and enjoy razor-sharp focus  
24 and concentration. . . . Imagine regaining the mental sharpness you  
25 had 10 to 15 years ago. Now you can with Procera AVH . . . the  
26 natural remedy for your memory.

27 ...

1 JOSH REYNOLDS: Procera helps to nourish the brain, to bring back the  
2 memory, the brain power you had 10 to 15 years ago, restoring those  
3 neurotransmitters, improving your mental clarity, improving your  
4 concentration, and elevating your mood. Now, one of the things about  
5 memory that Procera had such a pronounced impact on was recall  
6 speed. . . . The two types of memory . . . that Procera had a profound  
7 effect on . . . long term memory and short term memory. . . .  
8

9 **ON SCREEN: Procera Can Help Help Improve Two Types of Memory**  
10 **Long Term Memory**  
11 **Short Term Memory**

12 . . .

13 JOSH REYNOLDS: Procera improved the ability to multi-task, to recall  
14 information faster, back to what it would have been 10 to 15 years  
15 earlier. . . .  
16

17 . . .

18 DAVE RICHARDS: What was different about the clinical trial that you  
19 conducted with Procera AVH? . . .

20 DR. CON STOUGH (clinical researcher, on the phone): . . . this one was  
21 unique . . . in the types of things that it improved including things like  
22 memory, speeding up the brain, some aspects of intelligence, and  
23 mood . . . in our clinical trials. . . .  
24

25 . . .

26 DAVE RICHARDS: People can improve their brain function to levels that  
27 they had perhaps 10 to 15 years prior, is that something you concur  
28 with?

1 DR. CON STOUGH: Absolutely. There's really nothing until now that has  
2 been able to help us stop that decline. We don't normally see those  
3 effects so quickly.

4 . . .

5 JOSH REYNOLDS: . . . it's never too late to reverse mental decline, to  
6 perk up your brain. . . . Now there is something you can do about it  
7 and Procera is your answer.

8 . . .

9 DAVE RICHARDS: Welcome back everybody. How's your memory  
10 these days? Are you forgetting where you left things like, oh, maybe  
11 your cell phone or your car keys? Are you forgetting important dates  
12 or details? Are you struggling to recall names, facts, and ideas as  
13 quickly as you used to? Is getting work done more difficult because  
14 you just simply can't concentrate, or multitask like you used to? Well,  
15 thanks to over 30 years of research by Josh Reynolds and his study of  
16 over 1.5 million brains, you may finally now have a safe, natural  
17 solution to those problems.

18 . . .

19 ON SCREEN: Clinically Tested – Safe and Effective!

20  
21 JOSH REYNOLDS: We found the magic three, put them together,  
22 clinically tested them. . . . My passion has been to find a solution for  
23 memory decline. . . . It's never too late to reverse mental decline. . . .  
24 Now there is something you can do about it and Procera is your  
25 answer.  
26

1           **B. Excerpts from Procera infomercial (Transcript attached as Exhibit**  
2           **B; DVD recording submitted as Exhibit B.1) [BRL003304]**

3  
4           PATRICE KING BROWN: Hello I'm Patrice King Brown, bringing you  
5           the latest breaking news on an emerging health crisis possibly facing  
6           all Americans age 40 and older. . . . The problem is characterized by  
7           the embarrassing, frustrating, sometimes dangerous effects of losing  
8           our mental edge, our focus and concentration, and even our memory.  
9           And if you're suffering from mental fatigue, brain fog, fuzzy thinking,  
10          slow reactions, memory issues, or you just can't seem to focus and  
11          concentrate like you used to, you may be one of the potential millions  
12          experiencing premature mental decline. Today we'll tell you what that  
13          is . . . and what you can do to regain your mental edge and re-energize  
14          your mind, mood and memory. . . . But first, let me introduce you to .  
15          . . Dr. Paul Nemiroff. . . .

16  
17          [Dr. Nemiroff,] you have said a large portion of Americans may be  
18          experiencing some form of premature mental decline. Can you explain  
19          this?

20  
21          DR. PAUL NEMIROFF: . . . It's not feeling as mentally sharp or crisp like  
22          you used to feel. It can also show up as a noticeable increase in mental  
23          lapses, forgetfulness, increased mental fatigue, or even mood swings, .  
24          . . [T]hat's what we're talking about with premature mental decline. . .  
25          .  
26          Maybe you increasingly find yourself missing appointments or  
27          forgetting important dates or names, or walking into a room and  
28          forgetting why you are there, or staring at your computer and saying

1 what did I just type, or reading something and then forgetting what you  
2 just read. . . . Here's the frightening truth. One-third of your brain  
3 power may be lost by age 40 and 50 percent of one's brain power may  
4 be lost by age 50.

5  
6 PATRICE KING BROWN: 50 percent by age 50! . . . We often joke  
7 about forgetting names and dates, or how you're having trouble  
8 concentrating. Apparently, we really shouldn't be laughing about that.

9  
10 DR. PAUL NEMIROFF: Well, premature mental decline is very real. And  
11 may be affecting your brain right now. It's not a laughing matter.

12  
13 ON SCREEN: Slight Memory Problems Could Lead to Severe Cognitive  
14 Decline.

15 . . .

16 DR. PAUL NEMIROFF: . . . Then I read about how this cognitive  
17 researcher had figured out how to combine these three natural  
18 ingredients into a precise formula, into one pill, that actually had been  
19 through a clinical study at a major university, a very rigorous study,  
20 and the study showed these natural nutrients could effectively address  
21 our brain's energy crisis. They actually helped reverse memory loss by  
22 up to 10 to 15 years.

23  
24 ON SCREEN: A double-blind, placebo controlled Study revealed that

25 Procera AVH:

- 26 1. Improved Memory  
27 2. Improved Mood  
28

1 3. Improved Mental Focus, Concentration

2 4. Improved Mental Energy

3 PATRICE KING BROWN: Procera AVH, and that's what I've been  
4 reading about just about everywhere, from the peer reviewed medical  
5 journal, JANA, to national magazines, to newspapers, and I've also  
6 seen it's been heralded as a brain oxygen boosting secret.

7 ...

8 DR. PAUL NEMIROFF: . . . I was amazed at how my brain reacted to  
9 taking the first tablet of Procera AVH. It was incredible. Let me give  
10 you an example. If you had a vision problem and you tried to read the  
11 eye chart and the letters are all fuzzy but then suddenly you put on  
12 some prescription glasses and you looked at the same eye chart, things  
13 come into focus. That's what it was like for me with Procera.

14  
15 PATRICE KING BROWN: That dramatic?

16  
17 DR. PAUL NEMIROFF: It was very dramatic that very first night. And I  
18 noticed that my mental clarity was better. My focus was better. I felt  
19 like I did when I was younger. I could start to remember names and  
20 faces I'd forgotten. My memory was sharp. I felt I had my mental  
21 edge back.

22 ...

23 ANNOUNCER: Procera AVH is America's number one clinically tested  
24 brain supplement for mind, memory, and mood, helping people regain  
25 their memory and mental quickness, keeping them sharp and focused  
26 throughout the day. Seniors report Procera improves their memory and  
27 concentration, giving them back their confidence and independence.  
28 Busy professionals report Procera gives them back their mental edge,

1 helping them be more productive, focused, and energized.

2 . . .

3 DR. GENE STEINER: I'm Dr. Gene Steiner. As a pharmacist, I've always  
4 felt helpless in recommending a solution for memory loss.

5  
6 ANNOUNCER: Research reveals that the average person can lose up to  
7 50% of their brain power by age 50.

8  
9 DR. GENE STEINER: Now there's a safe and natural solution. It's called  
10 Procera AVH.

11  
12 ANNOUNCER: Procera was clinically shown to help improve memory,  
13 mood, and mental clarity.

14  
15 DR. GENE STEINER: Procera is safe, effective, and taken daily as  
16 directed, Procera can restore the brainpower you had 10 to 15 years  
17 ago.

18 . . .

19 ANNOUNCER: . . . Regain the mental sharpness you had 10 to 15 years  
20 ago with Procera. . . . Boost your brain power, memory, and focus  
21 today.

22 . . .

23 DR. GENE STEINER: Get started with Procera AVH today, the new,  
24 natural remedy for your memory.

25 . . .

26 PATRICE KING BROWN: . . . Let me welcome Josh Reynolds to the  
27 broadcast. Josh is the mastermind behind the Procera AVH formula,  
28

1 which has become America's number one brain health and  
2 performance supplement. He is also co-founder of Brain Research  
3 Labs.

4 ON SCREEN: Reynolds standing in front of a room wearing a white coat.

5 SUPER: Co-Founder and Chief Scientist.

6 . . .

7 PATRICE KING BROWN: Josh, tell us, what is the story behind ProCera  
8 AVH?

9  
10 JOSH REYNOLDS: Well, first a little background. I've spent over 30  
11 years studying the brain, as you know. And in this time, I invented  
12 brain tests that were used by medical schools around the country,  
13 validated by medical schools such as Stanford, and with these tests, we  
14 measured over 1.5 million brains.

15 . . .

16 JOSH REYNOLDS: Well actually, 1.5 million people, we measured their  
17 brain power, we measured their concentration, their ability to focus,  
18 remember, their moods. And from all this data, we saw first of all,  
19 something very shocking. That the brain was declining faster than the  
20 body and perhaps by up to 50 percent by age 50, 55. This shocked all  
21 the researchers

22 . . .

23 PATRICE KING BROWN: So, tell us, how does this all work in the brain?

24  
25 JOSH REYNOLDS: This represents a brain. . . .

26  
27 ON SCREEN: Reynolds points to a sphere that lights up brightly.  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JOSH REYNOLDS: . . . and it represents a young, vibrant, oxygenated brain that is full of energy, great memory, sharp mental acuity. As we age, . . . [the brain] . . . starts to lose its energy. It gets dull. It loses its brightness.

ON SCREEN: Sphere dims as Reynolds speaks, until the light is off.

JOSH REYNOLDS: So, let's watch what happens when we feed the brain the energy nutrients that it needs, such as those found in . . . Procera AVH. We want to give the brain back the oxygen, give it back the neurotransmitters, take away those free radicals, perk up the brain and get that edge back that you felt when you were much younger.

ON SCREEN: Depiction of the side of a dully-colored head that lights up with bright colors as Reynolds speaks.

PATRICE KING BROWN: So, you got it to work in the laboratory. Tell us now what happened when you took it outside the lab and gave it to real people.

JOSH REYNOLDS: . . . My mom, when she was 90, she told me she was playing bridge, which I knew, once a week and she was starting to lose her edge and could I help her. I said, "Mom, I invented this brain pill." So she started taking it and two signs she noticed. One, she could do her crossword puzzles faster and better. And number two, she was playing better bridge.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CELESTE B. (endorser): I believe Procera really keeps you sharp. I think it keeps you focused. It just gives you an ability to think more clearly, and have more memorization to just remember what you've done, and what you're trying to think about.

SYLVIA N. (endorser): I felt like I almost reversed the aging process when I started taking Procera because all of a sudden I was back to my same sharp memory I'd always had. . . .

. . .

ANNOUNCER: Boost your brain power, memory, and focus today.

. . .

DR. GENE STEINER: Get started with Procera AVH today, the new, natural remedy for your memory.

. . .

PATRICE KING BROWN: What can one expect the first time they take it?

DR. PAUL NEMIROFF: . . . Your brain is more crisp. It's more focused, clearer, sharper. It's like reading an eye chart with the right pair of glasses. . . . Everything comes into focus. . . . Once Procera kicks in you become more focused, mentally energized. You start to recall names, dates, and details more readily, almost as if you've turned back the clock 10 to 15 years on your brain power and memory.



1            thing I tell seniors is this: If you don't take the steps to address your  
2            mental decline now, your future may be quite bleak. Sorry, but that's  
3            the reality. Seniors miss out enjoying their retirement years when  
4            they're not mentally sharp. . . . Well, they miss out on the joys of life  
5            as they grow older, like teaching and playing with their grandchildren,  
6            or playing bingo, Scrabble, or simply being able to retain new  
7            information. . . . I'm here today because I feel I have a real solution. .  
8            . . . As part of my research I contacted the well-known clinical  
9            pharmacist, Dr. Gene Steiner. . . . He explained how his research led  
10           him to what's now become the #1 brain health supplement in the  
11           country, Procera AVH.

12  
13           PATRICE KING BROWN: So, what was it about the Procera AVH brain  
14           health formula?

15  
16           DR. ARNOLD BRESKY: For me, it was the science. It had solid science  
17           behind the ingredients, and a landmark clinical trial on the Procera  
18           Brain Health Formula itself. Again, I'm here to tell you that we don't  
19           have to accept mental decline. It may even be reversible.

20           . . .

21           PATRICE KING BROWN: So, are you telling me that Procera AVH can  
22           help make those senior moments a thing of the past, or at least a little  
23           less of a problem . . . ?

24  
25           DR. ARNOLD BRESKY: For many, the answer may be yes, Patrice.

26           . . .

1 DR. ARNOLD BRESKY: In the case of Procera AVH, the formula was  
2 really put through the grinder – a double blind placebo controlled  
3 clinical study – which is the gold standard. Then it was peer reviewed  
4 and published in the Journal of American Nutraceutical Association. It  
5 worked so well that the study group that used Procera AVH saw an  
6 improvement in memory, focus, concentration, and even mood in just  
7 30 days.

8 ...

9 PATRICE KING BROWN: . . . Let's go to our satellite studio and welcome  
10 your colleague, Josh Reynolds, to the broadcast. Josh is the  
11 mastermind behind the Procera AVH Formula, which has become  
12 America's #1 brain health and performance supplement. . . .

13  
14 JOSH REYNOLDS: . . . We measured over one million people's brains.  
15 We measured their IQ, their brain power, memory, their powers of  
16 concentration. And from all this data, we found something very  
17 shocking. It really shocked all the researchers. Brain power declined  
18 by up to 50 percent by age 50 to 55. . . . We set out to find whether  
19 there might be a simple, natural solution to slow down, if not stop, this  
20 decline. . . . So, we evaluated hundreds of brain nutrients. Then we  
21 conducted studies on the top half dozen or more on thousands of  
22 people. We discovered what I believed to be the top three brain  
23 nutrients in all of nature. . . . These three brain nutrients eventually  
24 became the Procera AVH formula. And, I might add, the U.S.  
25 government thought this formula to be so unique that they granted us a  
26 U.S. patent on Procera.

27 ...

1 PATRICE KING BROWN: So, Josh, how long does Procera actually take  
2 to start working?  
3

4 JOSH REYNOLDS: Well, it's actually going to vary. But, remember the  
5 clinical trial results for Procera were achieved in just 30 days. So, with  
6 Procera, you may feel more alert, more mentally energized, and more  
7 productive with a better memory, in just a few weeks. Imagine  
8 experiencing the memory recall you might have had 10-15 years ago in  
9 just 30 days. Procera has even been shown to improve mood and help  
10 you feel better, Patrice.

11 . . .

12 PATRICE KING BROWN: Now, if . . . you are interested in how  
13 America's #1 brain health supplement, Procera AVH, can help  
14 improve your memory, your focus, your concentration, and even your  
15 mood, then please pick up the phone and call the number on your  
16 screen. . . . I know that seniors fear losing their independence to  
17 handle their own finances, or becoming a burden to their children, or  
18 even ending up in a nursing home. These are all really very real fears  
19 associated with mental decline, and people really do feel helpless and  
20 sometimes hopeless.

21  
22 DR. ARNOLD BRESKY: I hear this every day from patients in my  
23 medical office. They don't realize there are simple things that can be  
24 done, like taking Procera AVH daily, to help slow and even stop their  
25 mental decline and stay mentally sharp, even into their later years.

26 . . .  
27  
28

1 DR. ARNOLD BRESKY: If you're embarrassed when you forget a  
2 person's name that you've known for years, or draw a complete blank  
3 on what you were about to say or forget where you were going next  
4 and can't remember if you locked the doors at night, remember it's not  
5 your fault. As we grow older, these things can happen to all of us. But  
6 an increase in these senior moments is something that you should not  
7 take lightly. So, here's the bottom line. Just as a great pair of glasses  
8 can sharpen your vision and bring even the smallest detail into crystal  
9 clear focus, a daily serving of Procera AVH may help do the same  
10 thing for your brain.

11  
12 **D. Excerpts from print advertisement (attached as Exhibit D)**  
13 **[BRL001849]**

14  
15 **Seniors Fear Loss of Independence More Than Death**  
16 *Staying mentally sharp key to independent lifestyle; new drug-free*  
17 *compound helps promote memory and mental confidence of a group 10-*  
18 *15 years younger, claims US Surgeon General candidate*

19  
20 . . . A recent Met Life/Harris survey revealed that seniors fear memory loss  
21 more than heart disease or cancer. And for good reason.

22  
23 . . . More than 5.4 million people over the age of 70 experience mild  
24 forgetfulness that can frequently disrupt their daily routines.

25 Seniors fret about losing their driving privileges. . . .

26 The thought of being a prisoner in one's own home, or being unable  
27 to recall who you are, where you live, or to whom you are related has sent  
28 forgetful seniors scrambling for a solution.

1 Many have discovered a unique, drug-free compound that, according  
2 to Robert Heller, MD, can help the brain in a similar way that prescription  
3 glasses help the eyes. . . .

4 In controlled research studies, the prescription-free formula, known  
5 as ProceraAVH® has been shown to increase memory, mood, and mental  
6 clarity.

7 During randomized, double-blind, placebo-controlled research  
8 conducted at the prestigious Brain Sciences Institute, clinicians witnessed a  
9 startling transformation in study participants' brains. Over a period of a few  
10 weeks, scientists observed the formula helping aging brains to function  
11 more youthfully, helping match the speed, memory abilities and mental  
12 powers enjoyed by a group up to 15 birthdays younger.

13 . . .

14 Doreen C., Tustin, Calif., was faced with a crushing decision. Her  
15 husband's memory was going downhill, fast.

16 "He had diminished to a point where he was confused during the  
17 day," Doreen says quietly, confessing he didn't seem to remember even  
18 basic tasks.

19 "I was fearful of leaving him at home," confides Doreen. So, she  
20 began to weigh her options, including day care. She paused for a long  
21 while, before adding, "That was a very difficult decision for us."

22 Several days later, Doreen was driving in her car when she heard an  
23 announcement about Procera AVH on the radio. "I thought, this has to be a  
24 sign. I pulled off the road, and ordered Procera right away!"

25 Doreen began giving her husband Procera AVH on Monday. Soon  
26 she wondered if a miracle was in the making.

27 "I was witnessing a tremendous change," smiles Doreen. "My  
28 husband was joking, and carrying on. We were having conversations, which



1 was something we had not done for months! I clearly saw a tremendous  
2 change.”

3 . . .

4 Elizabeth K. of Rochester, New York discovered Procera AVH just  
5 in time. At the age of 54, her memory was declining at an “alarming rate.”

6 She searched high and low for a solution, before she heard about  
7 Procera AVH. She decided to give it a try.

8  
9 **Better Memory, Better Mood**

10 “It took about a month for the memory benefit to kick in,” smiles  
11 Elizabeth. “Six months later, even my husband was impressed with my  
12 improved memory. And I am very happy with my renewed mental clarity  
13 and focus!”

14 If you’re having trouble managing your money or if you’re worried  
15 about losing your driving privileges, doctor-recommended Procera AVH  
16 may provide the confidence and security you need to maintain your  
17 independent lifestyle.

18  
19 **E. Excerpts from print advertisement (attached as Exhibit E)**  
20 **[BRL001848] Memory Pill Helps the Brain Like Prescription**  
21 **Glasses Help the Eyes, Claims US Surgeon General Candidate**

22  
23 *Remarkable changes observed, helps users match the memory power of*  
24 *others 15 years younger in as little as 30 days!*

25  
26 Help is on the way for those who routinely lose their car keys, get  
27 lost while driving, forget to call people back, or misplace their TV remote  
28 control.

1 Just like a good pair of glasses can make blurry vision, sharp and  
2 crystal-clear, there's a new, doctor-recommended memory pill that may  
3 help your brain, sharpening your memory and mental powers, and making  
4 that slow-thinking, sluggish brain as sharp as a tack.

5 In a controlled research study, the prescription-free formula, known  
6 as Procera AVH® has been shown to increase memory, mood, and mental  
7 clarity, but it does much more than that.

### 8 **Time Travel for Your Brain?**

9 If you have ever dreamed of traveling back in time, this drug-free  
10 compound may be the next best thing.

11 During research trials at the prestigious Brain Sciences Institute,  
12 clinical researchers witnessed a remarkable transformation in study  
13 participants' brains.

14 Over a period of a few weeks, scientists observed the formula  
15 "biochemically coaxing" aging brains to function more youthfully, helping  
16 match the speed, memory abilities and mental powers enjoyed by others  
17 who were up to 15 birthdays younger.

### 18 **Younger-Functioning Brain in 30 Days?**

19 If the results of this randomized, double-blind, placebo controlled  
20 study, published in JANA, a leading peer-reviewed scientific journal, are to  
21 be believed, it may be entirely possible that you can get your new, younger-  
22 functioning brain in as little as 30 days.  
23  
24  
25  
26  
27  
28



1 Want Some Good News!

2 Now there's a prescription-free, memory pill available that may do for the  
3 brain what prescription glasses do for the eyes. It's a natural compound that  
4 helps make a fuzzy thinking brain, crisp, clear, and focused.

5 . . .

6 **MENTAL DECLINE CAN BE LIFE-CHANGING**

7  
8 While many of the physical infirmities of growing old can be addressed  
9 with prescription eyeglasses, hearing aids, ramps, railings, or walkers, it's  
10 the loss of memory and mental abilities that most worry seniors. Losing the  
11 ability to mentally process everyday activities and events poses a risk to an  
12 independent lifestyle, starting with your financial independence.

13  
14 Imagine being told that

15 You are no longer allowed to handle your financial matters!

16 You must stop using and surrender your credit cards!

17 You are no longer trusted to purchase anything . . . for you or anyone  
18 else!

19  
20 Imagine being told that

21 You are moving to a nursing home to live with strangers!

22 Your lifelong possessions are to be sold or given away!

23  
24 Imagine being told that

25 You can no longer drive your automobile

26 You must sell your car, or give it to a family member

27 You are a prisoner in your own home.  
28

1 Call 1-800-919-2240 for your FREE 30-day supply of Procera AVH!

2 . . .

3 WAKE UP YOUR TIRED, SLUGGISH BRAIN

4  
5 . . . The thought of being a prisoner in one's own home, or being unable to  
6 recall who you are, where you live, or to whom you are related is sending  
7 forgetful baby boomers and retirees scrambling for a solution.

8  
9 What if I told you that your ability to concentrate and focus, and to recall  
10 names, places, faces, and even the smallest detail was not . . . 'lost?'

11  
12 Would you believe that it may be just lying dormant . . . waiting to be  
13 awakened?

14  
15 Procera AVH is the memory pill preferred by many doctors, shown in  
16 clinical research to improve memory, focus, concentration, mental vigor  
17 and clarity, and even mood in just 30 days or less!

18  
19 . . . Just like a good pair of glasses can make blurry vision sharp and crystal  
20 clear – Procera AVH may do the same thing for your brain – sharpening  
21 memory, improving focus and concentration, imparting crisp, alert mental  
22 response, even restoring your memory and brain power to a level enjoyed  
23 by those as much as 15 years younger!

24 . . .

25 . . . Reverses Up to 15 Years of Mental Decline in 30 Days!

26 Reclaim Up to 15 Years of Lost Brainpower in 30 Days with Procera AVH!

27  
28 In a university clinical study Procera AVH was shown to help reverse up to

1 15 years of mental decline, effectively restoring a 50-year-old's brainpower  
2 to that of a 35-year-old.

3  
4 Psst . . . Do Something! Your memory problems will only get worse with  
5 time. Unless you do something about it!

6 Symptoms of premature mental decline like poor memory, the inability to  
7 stay focused and on-task, mental confusion, and all-around 'slow thinking'  
8 may just be an indication that your brain is running low on fuel.

9  
10 You could begin to fix this in as little as 30 days! Procera AVH re-fuels an  
11 aging, tired brain with clinically-tested brain nutrients that help revitalize  
12 mind and memory.

13 **VIOLATIONS OF THE FTC ACT**

14 19. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or  
15 deceptive acts or practices in or affecting commerce.

16 20. Misrepresentations or omissions of material fact constitute deceptive  
17 acts or practices prohibited by Section 5(a) of the FTC Act.

18 21. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the  
19 dissemination of any false advertisement in or affecting commerce for the purpose  
20 of inducing, or which is likely to induce, the purchase of food, drugs, devices,  
21 services, or cosmetics.

22 22. For the purposes of Section 12 of the FTC Act, Procera AVH is  
23 either a "food" or "drug" as defined in Section 15(b) and (c) of the FTC Act, 15  
24 U.S.C. § 55(b), (c).

**COUNT I**

**FALSE OR UNSUBSTANTIATED EFFICACY CLAIMS**

1  
2  
3 23. Through the means described in Paragraph 18, Defendants have  
4 represented, directly or indirectly, expressly or by implication, that:

- 5 A. Procera AVH significantly improves memory, concentration,  
6 focus, mental clarity, and mood;
- 7 B. Procera AVH reverses 10 to 15 years of mental decline and  
8 restores the memory and brain power the user had 10 to 15  
9 years earlier;
- 10 C. Procera AVH stops and reverses age-related mental decline  
11 and memory loss; and
- 12 D. Procera AVH reverses and prevents memory loss and cognitive  
13 impairment severe enough to interfere with activities of daily  
14 living, including impairments of one's ability to drive a car,  
15 make financial decisions, and live independently.

16 24. The representations set forth in Paragraph 23 are false or misleading,  
17 or were not substantiated at the time the representations were made.

18 25. Therefore, the making of the representations as set forth in Paragraph  
19 23 constitutes a deceptive act or practice and the making of false advertisements,  
20 in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15  
21 U.S.C. §§ 45(a) and 52.

22 **COUNT II**

23 **FALSE PROOF CLAIMS**

24 26. Through the means described in Paragraph 18, Defendants have  
25 represented, directly or indirectly, expressly or by implication, that:

- 26 A. Procera AVH is clinically proven to significantly improve  
27 memory, concentration, focus, mental clarity, and mood; and  
28

1 B. Procera AVH is clinically proven to reverse 10 to 15 years of  
2 mental decline and to restore the memory and brain power the  
3 user had 10 to 15 years earlier.

4 27. The representations set forth in Paragraph 26 are false.

5 28. Therefore, the making of the representations as set forth in Paragraph  
6 26 constitutes a deceptive act or practice and the making of false advertisements,  
7 in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15  
8 U.S.C. §§ 45(a) and 52.

9 **COUNT III**

10 **UNSUBSTANTIATED EXPERT ENDORSEMENT CLAIMS**

11 **BY DEFENDANT REYNOLDS**

12 29. Through the means described in Paragraph 18, Defendant Reynolds,  
13 appearing as an expert endorser, has represented, expressly or by implication, that:

14 A. Procera AVH improves memory, including both long term  
15 memory and short term memory, mental clarity, focus,  
16 concentration, and mood;

17 B. Procera AVH reverses 10 to 15 years of mental decline and  
18 restores the memory and brain power the user had 10 to 15  
19 years earlier;

20 30. Defendant Reynolds did not possess and rely upon a reasonable basis  
21 for the representations set forth in Paragraph 29 at the time the representations  
22 were made. Moreover, Defendant Reynolds did not exercise his purported  
23 expertise in the fields of brain science and clinical research in the form of an  
24 examination or testing of Procera AVH and its purported scientific proof that was  
25 at least as extensive as an examination or testing that an expert in those fields  
26 would normally conduct, in order to support the conclusions presented in his  
27 endorsements.





1 C. Award Plaintiff the costs of bringing this action, as well as  
2 such other and additional relief as the Court may determine to be just and proper.  
3

4 Dated: 07-01-15

Respectfully submitted,

5 JONATHAN E. NUECHTERLEIN  
6 General Counsel

7  
8 

9  
10 ROSEMARY ROSSO  
11 PAUL SPELMAN  
12 Federal Trade Commission  
13 600 Pennsylvania Avenue, NW  
14 Washington, D.C. 20850  
15 Tel.: 202-326-2174, -2487  
16 Fax: 202-326-3259  
17 Email: rrosso@ftc.gov, pspelman@ftc.gov

18 //s// Maricela Segura

19 MARICELA SEGURA  
20 msegura@ftc.gov  
21 Federal Trade Commission  
22 10877 Wilshire Boulevard, Suite 700  
23 Los Angeles, CA 90024

24  
25 Attorneys for Plaintiff  
26 FEDERAL TRADE COMMISSION  
27  
28