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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OXY-HEALTH, LLC, a California
limited liability company,

Plaintiff,

v.

JASON ROSE d/b/a HYPERBARIC
SUPPORT, an individual,

Defendant.

CASE NO. CV09-3796 RSWL (SHx)
**JUDGMENT AND PERMANENT
INJUNCTION**

Plaintiff Oxy-Health, LLC (“Oxy”) and defendant Jason Rose d/b/a
Hyperbaric Support having stipulated to the entry of this final judgment and
permanent injunction (“Stipulated Judgment”),

IT IS HEREBY ORDERED THAT:

1. Jason Rose as an individual, Jason Rose doing business under a
fictitious business name, and any business that Jason Rose owns, in whole or in
part, directly or indirectly, including through any family member or acquaintance,
and any business from which Jason Rose obtains or has the ability to obtain any
financial benefit, directly or indirectly, and any business or person that Rose
controls (“Rose”):

a) shall not purchase or otherwise bid on any of Oxy’s current

1 trademarks or future registered trademarks or any marks confusingly similar to
2 those trademarks, including variations or misspellings, as keywords for any
3 internet search engine and shall not use those marks on a website, in marketing
4 materials, or elsewhere;

5 b) unless expressly approved by the United States Food and Drug
6 Administration (“FDA”) for soft hyperbaric chambers actually distributed by Rose,
7 Rose shall not advertise, market, distribute, promote, or sell, in any medium
8 whatsoever (including but not limited to through websites, YouTube, eBay,
9 Facebook, MySpace, and/or Twitter), or in any location around the world, any
10 modifications, upgrades, or kits that are intended to, or are able to, modify
11 hyperbaric chambers to increase the chamber’s pressure beyond those levels
12 cleared by the FDA for the particular chambers distributed by Rose, and shall not
13 refer anyone to a third party for the purchase or rental of any such pressure upgrade
14 products or pressure upgrade services or otherwise suggest that a customer contact
15 a third party for the purchase or rental of any such pressure upgrade products or
16 pressure upgrade services;

17 c) shall not advertise, market, distribute, or otherwise promote, in
18 any medium whatsoever (including but not limited to through websites, YouTube,
19 eBay, Facebook, MySpace, and/or Twitter), or in any location around the world,
20 the use of hyperbaric chamber pressures higher than those cleared by the FDA for
21 soft hyperbaric chambers;

22 d) unless expressly approved by the FDA for soft hyperbaric
23 chambers actually distributed by Rose, Rose shall not advertise, market, distribute,
24 promote, or sell, in any medium whatsoever (including but not limited to through
25 websites, YouTube, eBay, Facebook, MySpace, and/or Twitter), or in any location
26 around the world, oxygen concentrators, and shall not refer anyone to a third party
27 for the purchase or rental of any such concentrator products or concentrator
28 services or otherwise suggest that a customer contact a third party for the purchase

1 or rental of any such concentrator products or concentrator services;

2 e) shall not advertise, market, distribute, or other otherwise
3 promote, in any medium whatsoever (including but not limited to through
4 websites, YouTube, eBay, Facebook, MySpace, and/or Twitter), or in any location
5 around the world, hyperbaric chambers as treatments for any illness or disease for
6 which the FDA has not cleared that particular chamber (however branded), or
7 promote such hyperbaric chambers for use in athletic performance enhancement.
8 Notwithstanding the foregoing, Rose may orally refer customers who ask in an
9 unsolicited fashion about off-label uses of chambers to a licensed physician or
10 medical clinic for information pertaining to treatments;

11 f) shall not advertise, market, distribute, promote, or sell, in any
12 medium whatsoever (including but not limited to through websites, YouTube,
13 eBay, Facebook, MySpace, and/or Twitter), or in any location around the world,
14 hyperbaric chamber products using testimonials from anyone (including but not
15 limited to athletes and doctors) who did not actually use chamber products sold by
16 Rose. Notwithstanding the foregoing, Rose may orally respond in a truthful
17 fashion to customers who ask in an unsolicited fashion about celebrities who use
18 hyperbaric chambers;

19 g) shall not advertise, market, distribute, or other otherwise
20 promote, in any medium whatsoever (including but not limited to through
21 websites, YouTube, eBay, Facebook, MySpace, and/or Twitter), or in any location
22 around the world, hyperbaric chamber products in comparison to any Oxy chamber
23 products or Oxy itself. Notwithstanding the foregoing, Rose may orally respond in
24 a truthful fashion to customers who ask in an unsolicited fashion about Oxy's
25 chambers, provided that this oral response does not violate subsection (h) below;

26 h) shall not advertise, market, distribute, or other otherwise
27 promote, in any medium whatsoever (including but not limited to through
28 websites, YouTube, eBay, Facebook, MySpace, and/or Twitter), or in any location

1 around the world, any statements that are untrue, not based on verifiable fact, or
2 that criticize Oxy's products or Oxy's reputation;

3 i) shall not sell or participate in any manner in the sale of any
4 hyperbaric chamber products in the United States unless such sale is specifically
5 authorized by a valid prescription issued by a duly licensed physician; and

6 j) shall permanently shut down all internet blogs, chat rooms,
7 discussion forums, and list serves relating in any way to hyperbaric chamber
8 products that are currently under his control.

9 2. Oxy's non-enforcement of any of the terms of the Stipulated
10 Judgment shall not waive Oxy's right to future enforcement of its terms.

11 3. The parties, and each of them, waive all rights in this matter to a trial,
12 a trial by jury, any appeal, any and all legal or applicable defenses or remedies
13 each party may have in this action, a motion to vacate judgment, a motion for a
14 new trial, a collateral attack on judgment, or any other rights or remedies that each
15 party may now have or at any time hereafter may have to attack the Stipulated
16 Judgment. The Stipulated Judgment is a final, non-appealable Judgment and
17 Order.

18 4. Nothing in the Stipulated Judgment waives either party's right to
19 bring an action against the other party for any future unlawful conduct.

20 **IT IS SO ORDERED.**

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22 Dated: June 25, 2010



23 RONALD S.W. LEW
24 Senior, U.S. District Court Judge
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