

EXHIBIT 12

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KATHLEEN MOLLER

vs.

NO: 24-0228-WBV-DPC

MARTIAN SALES, INC.;
JOPEN, LLC, a Texas
limited Liability company;
JOHNSON FOODS, LLC, a Wyoming
limited liability company;
CAG Holdings, LLC, a Wyoming
limited liability company;
RMH HOLDINGS, INC., a Wyoming
corporation, et al.

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The remote video deposition of
MARK JENNINGS, as corporate
representative of Calibre Manufacturing,
taken via Zoom web conference on
October 10, 2025, commencing at
approximately 9:32 a.m. EST

Job No. MDLG7641097-1

1 Q Bringing back memories?

2 A Yeah.

3 Q And, so, at this time, was
4 Advanced Nutrition manufacturing kratom?

5 A It might have been a product that we
6 made some, like, maybe test batches of. But it
7 wasn't the main product that we were producing at
8 that time, no.

9 Q So there would have been --
10 Well, let me ask you this way. Was
11 OPMS kratom being manufactured at
12 Advanced Nutrition at this time?

13 A I don't remember. I don't think so,
14 but I don't remember.

15 Q And, so, this is -- this is a training
16 certificate. Is that different from a GMP
17 certification, or does this count as a GMP
18 certification?

19 A At this time, if I'm not mistaken, GMP
20 as a requirement for a food and supplement
21 manufacturer was very new. And there was a time
22 frame when companies had to become compliant, and
23 it depended on size of the company. It was
24 somewhat of a strange rollout.

25 So I think this was actually during the

1 time where we were on the way to being required,
2 and, so, we got all -- as much as we could done
3 to understand what it would take and get the
4 facility up to that level.

5 Q What --

6 A (Cross-talk.)

7 Q No. That's fine.

8 What was the -- what was causing that
9 shift into having GMP be required of
10 Advanced Nutrition?

11 A It was something in the DSHEA Act from
12 the FDA. I forget. But it was a -- it was a
13 rollout to the entire industry somewhere around
14 2010 where it really wasn't even required prior
15 to that for foods or supplements. And they
16 rolled it out around that time. It's, yes,
17 somewhere in the DSHEA Act, I believe.

18 Q Okay. And just for the record, DSHEA
19 is the Dietary Supplement Health and Education
20 Act?

21 A Yes.

22 Q Okay. So, and so that's why this is
23 referring specifically to training regarding CFR
24 for dietary supplements?

25 A Yeah. I thought he also issued a

1 certificate of compliance, and it might have been
2 because -- it might have been later when he came
3 back. Because he -- he visited, I think, more
4 than once. So...

5 Q Okay.

6 A Yes. That's the answer.

7 Q All right. Let's take a look at
8 Exhibit 8.

9 (DEPOSITION EXHIBIT NUMBER 8
10 WAS MARKED FOR IDENTIFICATION.)

11 MR. COWGILL:

12 Q This says "Certificate of Compliance in
13 Current Good Manufacturing Practices is Presented
14 to Calibre Manufacturing." It provides an
15 address. It says "audit type, dietary
16 supplements. Audit rating, excellent. Audit
17 score, 95 percent. Audit date, August 12, 2024.
18 Audit expiration, 9/12/2025."

19 It refers to that same CFR? Do you see
20 that? 21C FR, part 111?

21 A Yep. Yep.

22 Q It says "cGMP Practice in
23 Manufacturing, Packaging, Labeling, or Holding
24 Operations for Dietary Supplements."

25 Have you seen this certificate before?

1 A Yes.

2 Q So it looks like this one has a
3 one-year term. Do these certificates have to be
4 renewed every year?

5 A I don't think they have to, unless it
6 shows an expiration date on it. Otherwise, you
7 perform internal audits, essentially, that make
8 sure that your team and everybody keeps things up
9 to compliance.

10 Q And, so, it looks like this audit
11 expired, you know, just under a month ago. Is
12 Calibre doing another audit?

13 A They have already done another audit
14 and have received a new certificate of compliance
15 with an audit score of 100.

16 Q All right.

17 A Yeah.

18 Q And this address here, the 1199 Atlanta
19 Industrial Drive in Marietta, is this the same
20 address where Advanced was located?

21 A For a period of time, yes.

22 Q When the shift from Advanced to Calibre
23 occurred, was it at this address?

24 A Yes.

25 Q Now, how -- how does Calibre reconcile

1 testimony that kratom is a food, yet the GMPs are
2 expressly for dietary supplements?

3 A It's my understanding that in -- inside
4 of 21 CFR, Part 111, there are subsections for
5 dietary supplements and foods. The audit covers
6 the entire Part 111, so foods is actually
7 included under there. And I believe supplements
8 is actually a higher standard with all of the
9 same as foods. And, so, they audited to a
10 slightly higher standards. But food is included
11 in that CFR.

12 Q And where -- where do you have that
13 understanding from?

14 A From when I used to read these CFRs
15 back in 2012 trying to figure out what GMP meant.

16 Q All right. So do you have an
17 understanding that dietary supplements are
18 actually a subcategory of foods?

19 MS. PAYTON:

20 Object to the form.

21 A No. I thought they were just two
22 slightly different parts under that CFR.

23 MR. COWGILL:

24 Q Have you ever spoken to any expert
25 regarding FDA regulation on whether kratom

1 the highlighted portions. But let me know, does
2 this look familiar to you?

3 A It does.

4 Q Okay. Then I'm just gonna scroll a
5 little faster for the sake of time, and we'll go
6 through.

7 So before we start digging in, when
8 were these manufacturing standard operating
9 procedure documents created?

10 A I don't remember the date of creation,
11 but they've been around for a long time, and they
12 have been continuously modified or changed, as
13 needed, to meet requirements for client needs, so
14 on and so forth.

15 Q Who created these?

16 A Those were --

17 Really, Jeffrey Wick from the GMP
18 coaching, that's where these documents would have
19 originated from. And then, throughout the years,
20 they were worked on by different quality
21 managers.

22 Q You see here it says "during all
23 manufacturing activities, batch production
24 records (BPR) must be prepared for each batch of
25 dietary supplement finished products or WIP

1 inventory items"?

2 A Yep.

3 Q Why is this referring to dietary
4 supplements?

5 A I'm not sure. That must have been in
6 there when we were given the documents to start,
7 and it wasn't something that we ever flagged to
8 change. We were more so focused on what was
9 relevant to our facility.

10 Q And what does "WIP inventory items"
11 mean?

12 A Work in progress.

13 Q I'm gonna skip around, because I know
14 you've touched on some things already that I
15 wanted to ask, so I won't repeat things. But the
16 finished batch lot number, is that the number
17 that you've described today that would be the
18 number that could be used to identify testing and
19 documents in Qualio?

20 A Correct.

21 Q You see here it says "revision date,
22 8-29-19"?

23 A Yep.

24 Q And, so, "revision 2"?

25 A Uh-huh.

1 Q So would there have been a revision 1?

2 A Or an original version or a revision 1?
3 I would assume so, yeah.

4 Q Yeah. I guess I'm trying to
5 understand. Is this a situation where we're
6 counting from zero or from one? You know what I
7 mean? So would it have been like there's the
8 original, revision 1, revision 2, or is it the
9 original is 1 and then there's revision 2?

10 A I -- I don't remember that detail.

11 Q Okay. And you see here it says this
12 was approved by you?

13 A Yes.

14 Q It was prepared by David Leiner, or
15 "Liner"? Are you familiar with him?

16 A Yes.

17 Q Who is he?

18 A He was the quality manager at
19 Advanced Nutrition prior to Larry.

20 Q Okay. And, so, part of the requirement
21 for each batch is that all tests and
22 examinations, checks and observations be -- all
23 those results be kept?

24 A Yes.

25 Q And you see here under policy it says

1 "our company is a distributor of its own dietary
2 supplement formulations and performs no
3 manufacturing or packaging activities"?

4 A Uh-huh.

5 Q Do you see that?

6 A I do.

7 Q I want to understand it, because, as
8 I've understood the testimony thus far, Jopen is
9 the distributor, not Advanced, and, you know,
10 therefore, not Calibre either; right?

11 A Correct.

12 Q And Calibre is, like Advanced, the
13 manufacturer. They're not actually distributing
14 or packaging for direct sale to a consumer.

15 A Correct.

16 Q And, you know, at least your testimony,
17 this says "dietary supplement formulations," but
18 your testimony has been that Calibre is producing
19 food. Kratom is a food. Right?

20 A Yes.

21 Q So can you explain why this policy was
22 stated here?

23 A So this looks --

24 This is an employee hygiene procedure.
25 This was one of the templated procedures that

1 Jeffrey Wick, who basically said that the FDA
2 guidance --

3 These SOPs are what the FDA guidance
4 says you need to do.

5 And I actually retract a little bit.
6 All products do currently go through a magnet and
7 a metal detection system.

8 Q They do. Okay. And that's to find any
9 foreign objects and that sort of thing?

10 A Correct.

11 Q And up here, prevention of microbial
12 growth in finished products and in-process
13 materials, using methods such as sterilizing,
14 pasteurizing, freezing, refrigerating,
15 controlling pH, controlling humidity, and
16 controlling water activity, do you see that?

17 A Yes.

18 Q Is that a process that still occurs?

19 A Um, of course. So all of the rooms are
20 temperature and humidity controlled. I mean,
21 controlling water activity simply means mopping
22 up where there are puddles so microbials don't
23 grow. So, yes, absolutely.

24 Q All right. Are master manufacturing
25 records still kept at Calibre?

1 A Yes.

2 Q And you see here again it references
3 the name of the dietary supplement to be
4 manufactured?

5 A Yes.

6 Q That would include the manufacture of
7 kratom?

8 A Yes.

9 Q It says "the identity and quantity of
10 each dietary ingredient." Okay. So this -- long
11 and short of it is this is still being followed
12 today at Calibre?

13 A Correct.

14 Q Let's take a look at Exhibit -- well, I
15 think we touched on that. Exhibit 23.

16 (DEPOSITION EXHIBIT NUMBER 23
17 WAS MARKED FOR IDENTIFICATION.)

18 MR. COWGILL:

19 Q So this is Manufacturing Procedure
20 (SOP), standard operating procedure, for kratom
21 capsules. Do you see that?

22 A Yes.

23 Q I'll scroll through. It's just two
24 pages. The second one's blank.

25 This one's not clear to me. Do you

1 Q Okay. And, so, it's probably
2 self-explanatory, but I just want to confirm. So
3 when we saw those issues earlier, the QC issues,
4 like bad caps or, you know, some powder
5 fluffiness, whatever it may be, is that what
6 leads to a hold that then leads to one of these
7 three results?

8 A Um, yes.

9 Q Okay. So the inventory there gets
10 destroyed, which means it's just destroyed;
11 right? It's gone, not gonna be in circulation?
12 Is that right?

13 A Correct.

14 Q Acceptance of inventory for
15 distribution would be it moved down the chain
16 eventually to Jopen and onto the shelves?

17 A Yes.

18 Q And then a rework, is that what you
19 described as when they would essentially run a
20 batch again to get it right?

21 A Yes.

22 (DEPOSITION EXHIBIT NUMBER 30
23 WAS MARKED FOR IDENTIFICATION.)

24 MR. COWGILL:

25 Q Okay. Let's look at Exhibit 30. This

1 is Martian Sales: Specification Sheet. I'll
2 scroll through. It's seven pages.

3 Have you seen this before?

4 A Yes.

5 Q Okay. And I just want to pin it down.
6 So we've got -- you know, just a reminder, we've
7 got the 4-ounce OPMS Silver powder of Green Maeng
8 Da, and then we've got the 30-capsule package of
9 Green Vein Maeng Da, also Silver. So can you
10 tell me which specification sheet would apply to
11 those products?

12 A Sure.

13 That one.

14 Q Okay. All right. So I guess I guessed
15 correctly. I highlighted this one thinking it
16 was it.

17 And so this -- this here says "Dried
18 M. speciosa leaf capsule." But this would apply
19 equally to the powder? It's just the same spec
20 without it being in a capsule?

21 A Essentially, yes.

22 Q Okay. And I ask because, look, you
23 know, this one says "extract liquid," and we know
24 that we're not talking about liquid here; right?

25 A Correct.

1 Q It says "extract capsule 2." My
2 understanding is we're not dealing with an
3 extract product. Is that right?

4 A Correct.

5 Q Yeah. This is extract 2. So, again,
6 not an extract product; right?

7 A Yes.

8 Q Liquid. Again, not a liquid product;
9 right?

10 A Yes.

11 Q This is extract capsule 1 and extract
12 1. But we're not dealing with an extract.

13 A Correct.

14 Q So I'm not seeing a spec sheet that is
15 specific to just the powder -- right? -- just the
16 raw powder. Do you know, does one exist?

17 A I thought -- yeah, I believe there is
18 one. I'm not sure how it didn't make it in this
19 pile here. But, yeah.

20 Q Are you able to locate that and produce
21 it?

22 A Uh, Yeah.

23 Q And so the spec as to the dried leaf
24 capsule, dried mitragynine leaf capsule, it just
25 sets a color. So y'all are looking for the color

1 to be light brown or green; right?

2 A Yes.

3 Q And appearance, free-flowing powder,
4 what does that mean?

5 A That when you hold it up in a bag, it
6 actually moves and isn't clumpy or hardened.

7 Q And the capsule weight is not to exceed
8 800 milligrams?

9 A Correct.

10 Q Does that include the capsule weight,
11 like the weight of the empty capsule itself?

12 A I don't believe so. I think that's the
13 fill weight.

14 Q The fill weight. Okay. So it's like
15 on a scale where you could hit tare to eliminate
16 what you're filling? It's the same concept where
17 the capsule weight is sort of discounted and
18 you're only weighing the material going into the
19 capsule?

20 A Correct.

21 Q Okay.

22 MS. PAYTON:

23 Hey, Michael, is there any way you
24 could just get that one to me in email and then
25 we can look?