

ORIGINAL

Nutraceuticals International

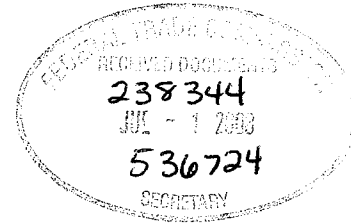


Exclusive Nutraceuticals | Specialty Ingredients

11 Wallace Street Elmwood Park, NJ 07407 USA

VIA DHL
June 27, 2008

Federal Trade Commission
600 Pennsylvania Avenue, NW, Room 135
Washington, DC 20580-0002



RE: Appeal of the Denial by Commissioner Harbour of the Petition by Nutraceuticals International LLC to Quash or Limit Civil Investigative Demand, File Number 082-3130

Dear Commissioners:

On June 27, 2008, Nutraceuticals International LLC (the "Company") received by mail the denial of its Petition to Quash or Limit the Civil Investigative Demand (CID) referred to above.

This Company hereby appeals the denial of its Petition by Commissioner Pamela Jones Harbour, since the Company's Petition is neither procedurally deficient nor without substantive merit. Commissioner Harbour's denial further requires that the Company answer the second CID despite the Company submitting this appeal to the full Commission. This circumstance renders this appeal meaningless without a stay, and the Company hereby requests an immediate stay of the CID pending Commission action on this appeal, or in the alternative, the Company shall submit its responses to the second CID directly to the Commissioners to hold in strict confidence and not release to Commission staff investigators pending the Commission's final decision on this appeal, with sufficient time provided to the Company prior to such release in the event of an adverse decision on the appeal in order to allow the Company sufficient time to access Federal District Court to protect the Company's legal rights and interests.

The Company respectfully requests that the Commission issue an interim ruling to stay the Company's compliance with the second CID as soon as possible, but at least prior to the response date of July 7, 2008.

I. Background and Summary

The Company fully answered and complied with the first Civil Investigative Demand which requested information on the Company's personnel involved in the marketing of hoodia gordonii material, and financial information regarding purchases and sales of the material. The second CID, the subject of the Company's Petition, seeks personal information on all personnel, whether or not they have been involved in the marketing or advertising of any material sold by the Company. Further, the second CID seeks Company bank information which is not relevant in any manner to the investigation. The Company's Petition avers that the information sought by the second CID is "clearly beyond the nature and scope of the investigation as defined by the Commission".

The Company's Petition includes an affidavit attesting to the misconduct of one or more of the Commission staff concerning threats made to the Company's receptionist, and a request contained in the Petition for the Inspector General to investigate the misconduct.

The Company's Petition states that the Company is not represented by counsel before the Commission and since the Commission rules require counsel to confer with Commission staff prior to filing a Petition,

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such rule does not apply to the Company nor precludes the Company from filing its Petition. Further, the Company stated its concern that any attempt to confer with the same Commission staff apparently involved in the misconduct would be fruitless. On June 27, 2008, the Company was served by mail with the denial of its Petition and hereby submits its Appeal to the full Commission.

II. The Petition is Procedurally Sufficient

The Company is a limited liability company formed in Delaware, and I am the Managing Director of the Company. My signature and apparent authority is adequate authorization according to the laws of Delaware. The Denial seeks to create arcane and super technical legal arguments to try to negate the Company's valid Petition. It does not make sense that the Commission, in its exercise of legal powers granted by Congress, would seek to rely on technicalities to dispose of and trample on a Petition filed in good faith by a small company rather than to seek the truth from facts and assist the Company to safeguard its legal rights. Instead Commissioner Harbour seeks to take on the role of Goliath to crush the attempt of a small Company named David to assert its rights.

The Denial states that my signature is indecipherable, but I do not think that is true. I have always signed my name in this manner, and perhaps Commissioner Harbour is not culturally aware of the fact that outside the United States people may sign their name in a manner not familiar to many Americans, particularly for names which are not a part of the English language.

Commissioner Harbour's denial begins by stating that the Company's petition is one page and not on Company letterhead. I see nothing in the Commission's Rules that require the Petition to be of any particular length, nor that the Petition has to be submitted on Company letterhead. Is this a new unpublished Rule?

Commissioner Harbour bases much of her argument not to consider the Company's Petition since my signature does not satisfy your Rule. She states that my signature does not demonstrate that I signed the letter, yet the Commission accepted the first CID which I signed. Then Commissioner Harbour states that I have not demonstrated that I am a bone fide officer of a Delaware limited liability corporation. The Company is not a corporation. The Company is a limited liability company. She further states that I need a corporate resolution but again, this Company is not a corporation. I am the sole authority in the Company so I suppose Commissioner Harbour needs another document signed by me to authorize myself to sign the Petition. This is bureaucratic nonsense. The title "Managing Director" is perfectly appropriate under Delaware law for me to use as the head of the Company, which is a limited liability company.

In her denial, Commissioner Harbour misstates the Commission Rule 2.7(d)(2) which, in plain English, requires "counsel" to confer with Commission lawyers. This Company is a small company and cannot afford the high-priced Washington lawyers who have experience with the minutiae of Commission Rules, mostly because they were formerly lawyers working for the Commission. This Company has a right to represent itself before the Commission and should not be coerced to have to hire counsel to confer with Commission staff attorneys or to file a Petition to the Commission. Apparently, unknown to the Company, Commissioner Harbour can make up her own rules for the Commission without public notice and substitute "officer" for "counsel". She suggests that a Company officer should have conferred with Commission attorneys in the absence of counsel, but the Rules clearly do not state so.

III. The Petition is Meritorius

The Company's Petition is legally and substantively sufficient to warrant the quashing or limitation of the second CID. Nowhere does the Company rely on the first CID to define the nature and scope of the second CID, as Commissioner Harbour states in an attempt to mischaracterize the Company's Petition.

Plain meaning of the English words in the Commission's Resolution, File Number 0023191, is evidence enough for any fair-minded person to conclude that the names and address of receptionists, clerical

workers, warehousemen and others not involved in marketing hoodia gordonii or other products, are beyond the nature and scope of the authorization for the investigation of "unfair or deceptive acts or practices or in the making of false advertisements". Since when does a receptionist give up her rights to privacy because she works for a company that advertises products for sale?

With regard to the bank information demanded in the second CID, the information sought has no relevancy to the advertising of the Company, and Commissioner Harbour does not show how the information is relevant to the Resolution and investigation by any logical nexus. All financial information regarding hoodia gordonii has already been provided in the Company's response to the first CID, and if any other information is required concerning advertising and other products, the Company will furnish such information upon the issuance of a proper CID.

The cases cited by Commissioner Harbour are not conclusive when applied to the facts and circumstances of the Company's Petition. However, upon review of the cases she does cite, she nevertheless does not show as a basis for her denial how the information sought by the second CID is "reasonably relevant" to the investigation of advertising nor why it is "not plainly incompetent or irrelevant". The identification of employees and bank account information sought is plainly irrelevant to the nature and scope of the investigation into advertising. Commissioner Harbour does not show any connectivity of relevance which would make the second CID reasonable in any manner. She states that the Resolution is not limited to hoodia gordonii, but the second CID is irrelevant to other products as well and does not seek information on other products. Her arguments have not met the burden to show "reasonable relevancy".

Further, regarding the effects of misconduct by the Commission staff, without any investigation or reasoning, Commissioner Harbour concludes that "the Commission has no reason to believe that such conduct" of the Commission attorneys "affected in any way the issuance of the CID or its contents". She offers no factual or legal basis for her conclusion. I urge the Commissioners to read the Affidavit attached to the Company's Petition. Certainly the zeal of the attack on the Company's receptionist reveals an agenda which may be beyond the mandate and authority of the Commission. Also, the Company has had no response from the Inspector General's Office concerning any action they intend to take with regard to this matter brought to their attention. The fact that nameless, faceless, unaccountable bureaucrats like "Deb" who refused to identify herself, her position and other persons participating in the threatening phone call to my office staff, can be permitted to remain in a decision-making position in this matter renders this entire process tainted.

As a Hungarian, the actions by the Commission staff attorneys and the denial of the Company's Petition, are chilling reminders to me of the communist Stalinist tactics used years ago in Hungary by the State to intimidate and instill fear in ordinary citizens. The all-powerful state agencies exercised broad discretionary powers (as Commissioner Harbour claims the Commission has) and made decisions without reason (as Commissioner Harbour has not provided any justification or reason behind her conclusions) leaving no recourse against State authority (we must answer the second CID despite our appeal). This is not the America I know and love.

Prior to an investigation and report by the Inspector General, if other attorneys in the FTC are not assigned to this matter and the wrong-doers removed from this process, then fundamental fairness requires that the Company's response to the CID should be stayed until the Inspector General issues his report. It should be an easy and inconsequential action for the Commission to reassign this matter to other staff attorneys. Neither this Company nor the Commission knows if the misconduct of the Commission staff had any bearing on the contents and issuance of the second CID until the Inspector General concludes his investigation.

Nowhere does Commissioner Harbour's denial state any rationale for the information sought in the second CID beyond the right to exercise the broad powers of the State against individuals and companies. The Company has no confidence in the second CID because the information sought has been fashioned by those who have demonstrated their abuse of position and power over my clerical employees, so how can anyone know that this is proper and not the product of further Commission staff misconduct?

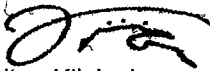
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I have authorized my office to affix my signature stamp since I am in Hungary now and the short 3-day time period for response does not permit me to send this appeal letter by original signature.

The return date of the second CID for July 7th must be stayed, otherwise this appeal is meaningless, and therefore the Company will have been denied all due process rights as a result. Please stay the return date of the second CID until such time as the full Commission has delivered its written decision on this Appeal, and allowing for adequate time for the Company to seek redress in Federal District Court in the event of an adverse decision on the Appeal. Fundamental fairness requires it.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Zoltan Klivinyi', with a stylized flourish at the end.

Zoltan Klivinyi
Managing Director