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At FTC's Request, Court Stops Supplement Marketers from Deceptive Advertising and Illegally Debiting Consumers' Accounts

At the Federal Trade Commission's request, a U.S. district court has temporarily stopped a group of marketers in Nevada and California from conducting business using "free" trial offers and health claims that the agency charges are deceptive and illegal to pitch green coffee bean extract and another dietary supplements. The FTC is seeking to permanently stop their allegedly deceptive conduct.

This is the first FTC action alleging violations of the Restore Online Shoppers' Confidence Act (ROSCA), which prohibits marketers from charging consumers in an Internet transaction, unless the marketer has clearly disclosed all material terms of the transaction and obtained the consumers' express informed consent.

"The defendants behind Simple Pure used nearly every trick in the book to deceive consumers," said Jessica Rich, Director of the FTC's Bureau of Consumer Protection. "They not only deceived consumers about the effectiveness of their products, but also repeatedly debited consumers' accounts without their approval."

According to the FTC's complaint, Health Formulas, LLC, its related entities, and principals (Simple Pure) use telemarketing, the Internet, print, radio, and television advertisements to pitch a variety of dietary supplements and other weight-loss, virility, muscle-building, or skin cream products. Examples of Simple Pure's advertising claims include: 1) "Burn fat without diet or exercise"; 2) "Shed pounds fast!" and 3) "Extreme weight loss!" The FTC alleges that the defendants have no basis for the weight-loss claims they make about their products.

In addition, the defendants allegedly trick consumers into disclosing their credit and debit card information, and then enroll them without authorization in a negative option program in which defendants continually charge consumers' accounts. The charge for Simple Pure's weight-loss supplements, with names like Pure Green Coffee Bean Plus and RKG Extreme, typically ranges from \$60 to \$210 per month. Some consumers were sold additional products that cost between \$7.95 and \$60.

The FTC charges that the defendants failed to provide the disclosures required for a negative-option program, failed to provide a way for consumers to stop the automatic charges, and also failed to disclose material facts about their refund and cancellation policy.

The complaint charges the defendants with violating the FTC Act, the ROSCA, and the Commission's Telemarketing Sales Rule (TSR). It also charges the defendants with violating the TSR's Do Not Call provisions by calling consumers who had asked them to stop calling. Finally, the complaint charges the defendants with violating the Electronic Funds Transfer Act by debiting consumers' accounts on a recurring basis without their prior written authorization.

Defendants in the case include: 1) Health Formulas, LLC, also doing business as (d/b/a) Simple Pure Nutrition; 2) Pure Vitamins, LLC; 3) Longhorn Marketing, LLC also d/b/a Men's Health Formulas, LLC, Life Vitamins, and Unleash the Thunder; 4) Method Direct, LLC, also d/b/a Extamax, LLC, Vitaman Labs, Inc., VitaFit, and Playboy Offer/DVD Entertainment; 5) Weight Loss Dojo, LLC, also d/b/a Fitness DVDs; 6) VIP Savings, LLC, also d/b/a VIP Saving Center; 7) DJD Distribution, LLC; 8) MDCC, LLC, also d/b/a Method Direct Calling Center; 9) Chapnick, Smukler & Chapnick, Inc.; and 10) Brandon Chapnick, Keith Smukler, Danelle Miller (also known as Danelle Folta and Danelle Kenealy), and Jason Miller, individually and as members of the corporate defendants.

Information for Consumers

Consumers should carefully evaluate advertising claims for weight-loss products. For more information, see the FTC's guidance for consumers of products and services advertised for Weight Loss & Fitness. The FTC also has information about understanding free trial offers, including "Free" Trial Offers?, which includes a video on potential risks of such offers, and a short online audio tip on free trials.

The Commission vote authorizing the staff to file the complaint was 5-0. The complaint was filed in the U.S. District Court for the District of Nevada on October 7, 2014, and the court entered a temporary restraining order against the defendants on October 9, 2014.

The FTC is a member of the National Prevention Council, which provides coordination and leadership at the federal level regarding prevention, wellness, and health promotion practices. This case advances the National Prevention Strategy's goal of increasing the number of Americans who are healthy at every stage of life.

NOTE: The Commission files a complaint when it has "reason to believe" that the law has been or is being violated and it appears to the Commission that a proceeding is in the public interest.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online Complaint Assistant or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of consumer topics. Like the FTC on Facebook, follow us on Twitter, and subscribe to press releases for the latest FTC news and resources.

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