



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF REGIONAL AFFAIRS

February 2, 2015

Alexander Gourlay, President
Walgreens
200 Wilmot Road
Deerfield, Illinois 60015

Certified—Return Receipt Requested

Re: **CEASE & DESIST NOTIFICATION**
Finest Nutrition—Walgreen Distributed Herbal Dietary Supplements

Dear Mr. Gourlay:

This letter constitutes a demand to cease and desist engaging in the sale of adulterated and/or mislabeled herbal dietary supplements, and in particular to immediately stop the sale of five “Finest Nutrition” dietary supplements as identified by lot number in the exhibit annexed hereto.

Be advised that the Attorney General is authorized by Executive Law § 63(12) to investigate allegations and prosecute businesses which perpetuate fraud upon consumers or engage in illegality in their business practices. General Business Article 22-b further authorizes this office to redress deceptive business acts and practices and false advertising. Of late, the topic of purity (or lack thereof) in popular herbal dietary supplements has raised serious public health and safety concerns,¹ and also caused this office to take steps to independently assess the validity of industry representations and advertising.

In an investigation recently conducted by the Attorney General’s Office, six popular Walgreen “Finest Nutrition” brand dietary supplement products were purchased at three different New York State locations and were then genetically tested five times per sample, yielding 90 results. The supplements tested included Ginkgo Biloba, St. John’s Wort, Ginseng, Garlic, Echinacea, and Saw Palmetto. By using established DNA barcoding technology, analytic testing disclosed that 5 of the 6 types of dietary supplement products tested were either unrecognizable or a substance other than what they claimed to be, and therefore fairly constitute contaminated or substituted products. Eighteen (18) percent of the tests yielded DNA matching the product label; 45% tested for botanical material other than what was on the label; and 37% yielded no plant DNA at all.

¹See, e.g., Newmaster, et al., “DNA Barcoding Detects Contamination and Substitution in North American Herbal Products,” *BMC Medicine*, 2013, 11:222 (<http://www.biomedcentral.com/1741-7015/11/222>).

Contamination, substitution and falsely labeling herbal products constitute deceptive business practices and, more importantly, present considerable health risks for consumers. The Attorney General's testing upon the products purchased revealed the following:

Ginkgo Biloba, Negative. The only DNA identified was "oryza", commonly known as rice. No ginkgo biloba DNA was identified.

St. John's Wort, Negative. Of the 15-tests performed, only three identified any DNA, and it was not of St. John's Wort. The DNA positively identified included allium, oryza, and dracaena (garlic, rice, tropical houseplant). No St. John's Wort was identified in the product.

Ginseng, Negative. Fifteen tests yielded identification of allium (x2) and oryza (x6), but no genetic material from ginseng.

Garlic, Negative. Genetic material of palm, dracaena, wheat, and oryza was located, with only 1/15 of the tests identifying allium as present in the product. Ten of the 15-tests showed no identifiable genetic plant material.

Echinacea, Negative. The testing revealed 5-positive identification of allium, 5-positive findings of oryza, and one for DNA material originating in the daisy family. No DNA from Echinacea was identified.

Saw Palmetto, Positive. All fifteen tests yielded genetic material of the saw palmetto plant.

Studies conducted by the Centre for Biodiversity Genomics at the University of Guelph and others have previously alerted the dietary supplement industry to the fact that it is not providing the public with authentic products without substitution, contamination or fillers. It is disappointing that over a year later the Attorney General's researcher reached similar conclusions, demonstrating that the industry has failed to clean up its practices.

To assist in the Attorney General's ongoing investigation of this matter, and pursuant to the above authority, kindly supply the following information:

1. The name of the manufacturer and the location of the production of each of the herbal products identified above.
2. A listing of any DNA testing or any other analytic testing for content and quality (including but not limited to chemical composition) of the herbal products listed above and copies of such testing results.
3. Copies of all licensing and production contracts with any party involved in the production and distribution of the herbal products identified above.
4. A listing of all ingredients used in the products identified above and a measurement of the amount of each ingredient in each of the herbal products identified above.
5. Identify the standards or procedures followed to authenticate the content of the herbal products listed above.

6. Produce the relevant Bioterrorism Registration documentation for the manufacturer of the dietary supplements.
7. Articulate the acquisition, production protocol, and quality assurance measures undertaken by the manufacturer of the products tested, including all such protocols undertaken to comply with current Dietary Supplement Current Good Manufacturing Practices (CGMPs) for quality control.
8. Produce any and all serious adverse event reports associated with use of any Walgreen herbal dietary supplement in the United States

Please provide the requested information to me at the following address: NYS Attorney General's Office, Dulles State Office Building, 317 Washington Street, Watertown, New York 13601. Kindly respond on or before 5:00 P.M. on February 9, 2015. If you have any questions, you may contact Assistant Attorney General Deanna R. Nelson at 315-785-2444.

The foregoing shall not constitute a waiver of or limitation on the Attorney General's authority to issue subpoenas or take enforcement action pursuant to applicable law.

Thank you for your anticipated cooperation.

Very truly yours,

MARTIN J. MACK
Executive Deputy Attorney General
In Charge of Regional Affairs

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Supplements by Lot #: As a courtesy, store location for the tested supplement is also listed. Kindly remove all of the supplements identified below which may bear the lot number indicated no matter the store location.

OAG #	Product	Address	Lot #
Br-Wg-1	Ginkgo Biloba	Walgreens # 04362, 520 Atlantic Avenue, Brooklyn, NY 11217	885709-02
Br-Wg-2	St. John's Wort	Walgreens # 04362, 520 Atlantic Avenue, Brooklyn, NY 11217	443071-09
Br-Wg-3	Ginseng	Walgreens # 04362, 520 Atlantic Avenue, Brooklyn, NY 11217	761948-04
Br-Wg-4	Garlic	Walgreens # 04362, 520 Atlantic Avenue, Brooklyn, NY 11217	902192-02
Br-Wg-5	Echinacea	Walgreens # 04362, 520 Atlantic Avenue, Brooklyn, NY 11217	770813-01
R-Wg-1	Ginkgo Biloba	Walgreens # 09584, 1650 Elmwood Avenue, Rochester, NY 14620	889588-02
R-Wg-2	St. John's Wort	Walgreens # 09584, 1650 Elmwood Avenue, Rochester, NY 14620	764386-03
R-Wg-3	Ginseng	Walgreens # 09584, 1650 Elmwood Avenue, Rochester, NY 14620	761948-04
R-Wg-4	Garlic	Walgreens # 09584, 1650 Elmwood Avenue, Rochester, NY 14620	902192-02
R-Wg-5	Echinacea	Walgreens # 09584, 1650 Elmwood Avenue, Rochester, NY 14620	748376-01
Wa-Wg-1	Ginkgo Biloba	Walgreens # 10219, 929 Arsenal Street, Watertown, NY 13601	885768-01
Wa-Wg-2	St. John's Wort	Walgreens # 10219, 929 Arsenal Street, Watertown, NY 13601	491668-10
Wa-Wg-3	Ginseng	Walgreens # 10219, 929 Arsenal Street, Watertown, NY 13601	500472-03
Wa-Wg-4	Garlic	Walgreens # 10219, 929 Arsenal Street, Watertown, NY 13601	881647-02
Wa-Wg-5	Echinacea	Walgreens # 10219, 929 Arsenal Street, Watertown, NY 13601	752900-02