



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN  
ATTORNEY GENERAL

DIVISION OF REGIONAL OFFICES

February 2, 2015

Doug McMillon, President/CEO  
Wal-Mart Stores, Inc.  
702 SW 8<sup>th</sup> Street  
Bentonville, Arkansas 72716

Certified—Return Receipt Requested  
Facsimile: 479-277-1830

Re: **CEASE & DESIST NOTIFICATION**  
*Spring Valley—Walmart Distributed Herbal Dietary Supplements*

Dear Mr. McMillon:

**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 six “Spring Valley” 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,<sup>1</sup> 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 Walmart “Spring Valley” 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 all of the tested dietary supplement products were either unrecognizable or a substance other than what they claimed to be, and therefore fairly constitute contaminated or substituted products. Four (4) percent of the tests yielded DNA matching the product label; 40% tested for botanical material other than what was on the label; and 56% yielded no plant DNA at all.

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<sup>1</sup>See, 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. No ginkgo biloba DNA was identified. The only DNA identified was "oryza" (commonly known as rice) in 6 of the fifteen tests, with other tests identifying dracaena (a tropical houseplant), mustard, wheat, and radish. Four of the tests revealed no plant DNA whatsoever.

**St. John's Wort.** Negative. No St. John's Wort DNA was identified. Of the 15-tests performed, only four identified any DNA, and it included allium, oryza (x2), and cassava (garlic, rice, and a tropical root crop).

**Ginseng:** Negative. No ginseng DNA was identified. The testing yielded identification of oryza, dracaena, pinus strobus, wheat/grass, and citrus spp., with 10 of the tests identifying no genetic material at all.

**Garlic:** Qualified negative. While one of 15 tests did identify the presence of allium, it was clearly not predominate. The other tests identified oryza (x6), and pinus spp. 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. No plant genetic material of any sort was identified in the product labeled Echinacea.

**Saw Palmetto:** Qualified negative. Three of 15 tests did identify the presence of saw palmetto, but it did not predominate. Three tests identified allium DNA, and six other tests identified the presence of oryza. Four tests were unable to identify any botanic DNA in the samples.

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 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 Walmart 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  
for Regional Offices

Enc.

Cc: Karen Roberts, Esq., Exec. Vice President & General Counsel

**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 #
Bu-Wm-1	Ginkgo Biloba	WalMart, 4975 Transit Road, Lancaster, NY 14086	897204-03
Bu-Wm-2	St. John's Wort	WalMart, 4975 Transit Road, Lancaster, NY 14086	214185088
Bu-Wm-3	Ginseng	WalMart, 4975 Transit Road, Lancaster, NY 14086	761948-10
Bu-Wm-4	Garlic	WalMart, 4975 Transit Road, Lancaster, NY 14086	900872-02
Bu-Wm-5	Echinacea	WalMart, 4975 Transit Road, Lancaster, NY 14086	214093742
Bu-Wm-6	Saw Palmetto	WalMart, 4975 Transit Road, Lancaster, NY 14086	410683-03
We-Wm-1	Ginkgo Biloba	WalMart #3441, 275 Main Street, White Plains, NY 10601	900362-02
We-Wm-2	St. John's Wort	WalMart #3441, 275 Main Street, White Plains, NY 10601	770912-04
We-Wm-3	Ginseng	WalMart #2531, 3133 East Main Street, Mohegan Lake, NY 10547	761948-12
We-Wm-4	Garlic	WalMart #3441, 275 Main Street, White Plains, NY 10601	901904-01
We-Wm-5	Echinacea	WalMart #3441, 275 Main Street, White Plains, NY 10601	2140937-42
We-Wm-6	Saw Palmetto	WalMart #3441, 275 Main Street, White Plains, NY 10601	775547-03
U-Wm-1	Ginkgo Biloba	WalMart, 710 Horatio Street, Utica, NY 13502	897204-03
U-Wm-2	St. John's Wort	WalMart, 710 Horatio Street, Utica, NY 13502	214215441
U-Wm-3	Ginseng	WalMart, 710 Horatio Street, Utica, NY 13502	761948-10
U-Wm-4	Garlic	WalMart, 710 Horatio Street, Utica, NY 13502	891564-01
U-Wm-5	Echinacea	WalMart, 710 Horatio Street, Utica, NY 13502	214164762
U-Wm-6	Saw Palmetto	WalMart, 710 Horatio Street, Utica, NY 13502	410683-03