



September 7, 2021

**UNITED PARCEL SERVICE
SIGNATURE REQUIRED**

Mr. Joseph Esposito, CEO
Aceva, LLC
624 West Glen Ave.
Peoria, IL 61614

RE: 614539

Dear Mr. Joseph Esposito:

This is to advise you that the Food and Drug Administration (FDA) reviewed your website at <https://aceva.com/> in August 2021 and has determined that you take orders there for your Sugar Balance product. In addition, FDA reviewed your social media websites, <https://twitter.com/acevahealth> and <https://www.facebook.com/acevanutrition>, which direct consumers to your website <https://aceva.com/> to purchase your product. You are also advised that the Federal Trade Commission reviewed your websites in August 2021.

The claims on your website and social media websites establish that this product is a drug under section 201(g)(1)(B) of the Federal Food, Drug, and Cosmetic Act (the Act) [21 U.S.C. 321(g)(1)(B)] because it is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease. As explained further below, introducing or delivering this product for introduction into interstate commerce for such uses violates the Act. You can find the Act and FDA regulations through links on FDA's home page at www.fda.gov.

Examples of some of the website claims that provide evidence that your product is intended for use as a drug include:

On your "Sugar Balance" product page on your website:

- "Sugar Balances helps improve insulin sensitivity and enhance blood sugar control."
- "[F]or improved A1c levels and glycemic control."
- "Regulating Blood Sugar. . ."

U. S. Food and Drug Administration
www.fda.gov

- “Sugar Balance is a clinically-effective formula containing powerful ingredients designed to improve insulin sensitivity and enhance blood glucose (sugar) control.”

On your social media Twitter page:

- "If you need to decrease your body's need for #insulin, use Sugar Balance."

On your social media Facebook page:

- “If you need to decrease your body's need for insulin, use Sugar Balance”
- “Help get your Diabetes under control. Sugar Balance is a clinically effective formula containing powerful ingredients designed to improve insulin sensitivity and enhance blood glucose (sugar) control.”

Your Sugar Balance product is not generally recognized as safe and effective for the above referenced uses and, therefore, the product is a “new drug” under section 201(p) of the Act [21 U.S.C. 321(p)]. With certain exceptions not applicable here, new drugs may not be legally introduced or delivered for introduction into interstate commerce without prior approval from FDA, as described in sections 301(d) and 505(a) of the Act [21 U.S.C. 331(d), 355(a)]. FDA approves a new drug on the basis of scientific data and information demonstrating that the drug is safe and effective.

A drug is misbranded under section 502(f)(1) of the Act [21 U.S.C. 352(f)(1)] if the drug fails to bear adequate directions for its intended use(s). “Adequate directions for use” means directions under which a layperson can use a drug safely and for the purposes for which it is intended (21 CFR 201.5). Prescription drugs, as defined in section 503(b)(1)(A) of the Act [21 U.S.C. 353(b)(1)(A)], can only be used safely at the direction, and under the supervision, of a licensed practitioner.

Your product Sugar Balance is intended for treatment of one or more diseases that, with certain exceptions not applicable here, are not amenable to self-diagnosis or treatment without the supervision of a licensed practitioner. Therefore, it is impossible to write adequate directions for a layperson to use your product safely for its intended purposes.

Accordingly, your Sugar Balance product fails to bear adequate direction for its intended use and, therefore, the product is misbranded under section 502(f)(1) of the Act [21 U.S.C. 352(f)(1)]. The introduction or delivery for introduction into interstate commerce of this misbranded drug violates section 301(a) of the Act [21 U.S.C. 331(a)].

This letter is not intended to be an all-inclusive statement of violations that may exist in connection with your product. You are responsible for investigating and determining the causes of any violations and for preventing their recurrence or the occurrence of other violations. It is your responsibility to ensure that your firm complies with all requirements of federal law, including FDA regulations.

This letter notifies you of our concerns and provides you an opportunity to address them. Failure to adequately address these matters may result in legal action including, without limitation, seizure and injunction.

Please notify FDA in writing, within 15 working days of receipt of this letter, of the specific steps you have taken to address any violations. Include an explanation of each step being taken to prevent the recurrence of violations, as well as copies of related documentation. If you cannot complete corrective actions within 15 working days, state the reason for the delay and the time within which you will do so. If you believe that your products are not in violation of the Act, include your reasoning and any supporting information for our consideration.

Your written reply to the above violations should be directed to Rob Genzel Jr. with the FDA via email at CFSANResponse@fda.hhs.gov. If you have any questions, you may also email at CFSANResponse@fda.hhs.gov.

FTC Cease and Desist Demand: In addition, the Federal Trade Commission has determined that it is unlawful under the FTC Act, 15 U.S.C. § 41 et seq., to advertise that a product can prevent, treat, or cure human disease unless you possess a reasonable basis consisting of competent and reliable scientific evidence, including, when appropriate, well-controlled human clinical studies, substantiating that the claims are true at the time they are made. *POM Wonderful LLC*, 155 F.T.C. 1, 60-61, (2013), *aff'd in relevant part*, 777 F.3d 478 (D.C. Cir. 2015); *Daniel Chapter One*, FTC Dkt. No. 9239, 2009 WL 5160000 at *16-19 (F.T.C. Dec. 24, 2009), *aff'd*, 405 Fed. Appx. 505 (D.C. Cir. 2010); *Removatron Int'l Corp.*, 111 F.T.C. 206, 297-99 (1988), *aff'd*, 884 F.2d 1489, 1496 (1st Cir. 1989); see also, *FTC v. Direct Mktg. Concepts*, 569 F. Supp. 2d 285, 300, 303 (D. Mass. 2008), *aff'd*, 624 F.3d 1 (1st Cir. 2010); *FTC v. Nat'l Urological Group, Inc.*, 645 F. Supp. 2d 1167, 1190, 1202 (N.D. Ga. 2008), *aff'd*, 356 Fed. Appx. 358 (11th Cir. 2009); *FTC v. Natural Solution, Inc.*, No. CV 06-6112-JFW, 2007-2 Trade Cas. (CCH) P75,866, 2007 U.S. Dist. LEXIS 60783, at *11-12 (C.D. Cal. Aug. 7, 2007). More generally, to make or exaggerate such claims, whether directly or indirectly, through the use of a product name, website name, metatags, or other means, without rigorous scientific evidence sufficient to substantiate the claims, violates the FTC Act. See *Daniel Chapter One*, WL 5160000 at *17-19.

The FTC is concerned that one or more of the efficacy claims cited above may not be substantiated by competent and reliable scientific evidence. Notice is hereby given that you must cease and desist from making any claim that a product can prevent, treat, or cure diabetes without competent and reliable scientific evidence consisting of well-controlled human clinical studies substantiating that the claims are true. Violations of the FTC Act may result in legal action seeking a Federal District Court injunction or Administrative Cease and Desist Order. In addition, marketers who make deceptive claims about the treatment, cure, prevention, or mitigation of a disease may be subject to a civil penalty of up to \$43,792 per violation pursuant to Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. § 45(m)(1)(B), and may be required to pay refunds to consumers or provide other relief pursuant to Section 19(b) of the FTC Act, 15 U.S.C. § 57b(b).

With regard to the advertising claims discussed above, please notify Richard Cleland of the FTC via electronic mail at rcleland@ftc.gov within fifteen (15) working days of receipt of this letter of the specific actions you have taken to address FTC's concerns.

Sincerely,

Glenn T.
Bass -S

Digitally signed by Glenn T. Bass -S
DN: c=US, o=U.S. Government,
ou=HHS, ou=FDA, ou=People,
cn=Glenn T. Bass -S,
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Glenn Bass
Acting
Deputy Director
Office of Compliance
Center for Food Safety
and Applied Nutrition
Food and Drug Administration

Sincerely,

SERENA
VISWANATHAN

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Serena Viswanathan
Associate Director
Division of Advertising Practices
Federal Trade Commission