

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

)	
In the Matter of)	
)	DOCKET NO.
PANDA HERBAL INTERNATIONAL,)	
INC., a corporation,)	
also doing business as)	
Viable Herbal Solutions, and)	
)	
EVERETT L. FARR III,)	
individually and as an officer of)	
the corporation.)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Panda Herbal International, Inc., a corporation, also doing business as Viable Herbal Solutions, and Everett L. Farr III, individually and as an officer of the corporation (“respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

PARAGRAPH 1: Respondent Panda Herbal International, Inc. (“Panda”) is a Pennsylvania corporation with its principal office or place of business at 744 Walnut Avenue, Building 2, Bensalem, Pennsylvania 19020.

Respondent Everett L. Farr III is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts and practices alleged in this complaint. His business address is 744 Walnut Avenue, Building 2, Bensalem, Pennsylvania 19020.

PARAGRAPH 2: Respondents have advertised, offered for sale, sold, and distributed, among other products, Herbal Outlook, a dietary supplement containing, among other ingredients, St. John’s Wort, Passion Flower, Gotu-Kola, and Kava Kava; and HerbVeil 8, a topical ointment containing, among other ingredients, distilled water, Bloodroot, Zinc Chloride, and Red Clover. Panda’s Herbal Outlook and HerbVeil 8 are “food” and/or “drugs” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act, 15 U.S.C. §§ 52 and 55.

PARAGRAPH 3: The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

Herbal Outlook

PARAGRAPH 4: Respondents have disseminated or have caused to be disseminated advertisements for Herbal Outlook, including, but not limited to, the attached Exhibits A and B. Advertisements for Herbal Outlook have been disseminated through websites on the Internet. Panda’s website, <http://www.viable-herbal.com> (excerpted in Exhibit A), contains the following statement:

Herbal Outlook - A Formula for Depression. The herbal ingredients in this formulation . . . have no known contraindications or side effects. . . . **CONTRAINDICATIONS:** None. Consult your physician before using this product if you are pregnant, lactating, have high blood pressure, or are being treated for a serious medical condition.
ABOUT THE ACTIVE INGREDIENTS The New York University Medical Center and the Weizmann Institute of Science reported the discovery of two substances in St. John’s Wort, hypericin and pseudohypericin, that displayed anti-viral activity against some retroviruses. Retroviruses include the human immunodeficiency virus (HIV), and the authors suggested that these herbal products could be useful in the treatment of AIDS. . . . Extracts of St. John’s Wort are now known to inhibit the growth of Mycobacterium tuberculosis, the most common cause of tuberculosis St. John’s Wort has also been reported to have anti-viral activity against herpes simplex virus, influenza virus and hepatitis B virus.

In addition, the package label for Herbal Outlook (Exhibit B) contains the following statement:

NO KNOWN WARNINGS OR CONTRAINDICATIONS.

PARAGRAPH 5: Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that ingestion of Herbal Outlook is effective in the treatment of HIV/AIDS, herpes simplex, tuberculosis, influenza, and hepatitis B infections.

PARAGRAPH 6: Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 5 at the time the representations were made.

PARAGRAPH 7: In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 5 at the time the representations were made. Respondents have produced no well-controlled scientific studies involving

human subjects showing that ingestion of Herbal Outlook is effective in the treatment of HIV/AIDS, herpes simplex, tuberculosis, influenza, or hepatitis B infections. Therefore, the representation set forth in Paragraph 6 was, and is, false or misleading.

PARAGRAPH 8: Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that ingestion of St. John's Wort, an ingredient in Herbal Outlook, is effective in the treatment of HIV/AIDS. Respondents have failed to disclose that ingestion of St. John's Wort is not compatible with use of protease inhibitors and other drugs used in the treatment of HIV/AIDS. This fact would be material to consumers in their purchase or use of the product. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

PARAGRAPH 9: Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that ingestion of St. John's Wort, an ingredient in Herbal Outlook, has no known contraindications or drug interactions.

PARAGRAPH 10: In truth and in fact, ingestion of St. John's Wort, an ingredient in Herbal Outlook, has known contraindications and drug interactions. Ingestion of St. John's Wort may reduce the effectiveness of drugs used to treat HIV/AIDS, as well as the effectiveness of cyclosporine (a drug used to prevent organ transplant rejection), the effectiveness of anticoagulants (such as warfarin), and the effectiveness of birth control pills. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.

HerbVeil 8

PARAGRAPH 11: Respondents have disseminated or have caused to be disseminated advertisements for HerbVeil 8, including, but not limited to, the attached Exhibit C. Advertisements for HerbVeil 8 have been disseminated through, among other media, websites on the Internet. Panda's website advertisement, <http://www.viable-herbal.com> (excerpted in Exhibit C), contains the following statement:

HerbVeil 8 is a botanical preparation having remarkable anti-tumor properties when used as directed. The topical ointment, when applied externally to dermal or epidermal lesions, necroses (*kills*) the aberrant tissue and creates an 'eschar' on the skin shortly after application. The body's natural rejuvenation system expels the resultant 'scab', leading a cavitated 'pit' area where the lesion had existed. . . . No residual cells from the original neoplasm will remain, and there will be no 'recurrence' of the ailment in the area of the treatment. HerbVeil 8 has been used in the successful removal of carcinoma, adenocarcinoma, and melanoma.

PARAGRAPH 12: Through the means described in Paragraph 11, respondents have represented, expressly or by implication, that topical application of HerbVeil 8 is effective in the treatment of carcinomas, adenocarcinomas, and melanomas.

PARAGRAPH 13: Through the means described in Paragraph 11, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 12 at the time the representations were made.

PARAGRAPH 14: In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 12 at the time the representations were made. Respondents have produced no scientific studies involving human subjects showing that topical application of HerbVeil 8 is effective in the treatment of carcinomas, adenocarcinomas, and melanomas. Therefore, the representation set forth in Paragraph 13 was, and is, false or misleading.

PARAGRAPH 15: The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this _____ day of _____, 2001, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: