

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**        **William E. Kovacic, Chairman**  
                                  **Pamela Jones Harbour**  
                                  **Jon Leibowitz**  
                                  **J. Thomas Rosch**

**In the Matter of**  
  
**NATIVE ESSENCE HERB COMPANY,**  
      **a corporation,**  
  
**MARK J. HERSHISER, individually, d/b/a Native**  
**Essence Herb Company, and as an officer of the**  
**corporation, and**  
  
**MARIANNE HERSHISER, individually, d/b/a Native**  
**Essence Herb Company, and as an officer of the**  
**corporation.**

**DOCKET NO. 9328**

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Native Essence Herb Company, a corporation, Mark J. Hershiser, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation, and Marianne Hershiser, individually, d/b/a Native Essence Herb Company, 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:

1. Respondent Native Essence Herb Company (“Native Essence”) is or has been a New Mexico corporation, with its principal office or place of business at 4 Tune Drive, Unit B, El Prado, New Mexico 87529.
2. Respondent Mark J. Hershiser is an officer of Native Essence. Individually or in concert with others, he has formulated, directed, controlled, or participated in the policies, acts, or practices of Native Essence, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Native Essence.

3. Respondent Marianne Hershiser is an officer of Native Essence. Individually or in concert with others, she has formulated, directed, controlled, or participated in the policies, acts, or practices of Native Essence, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of Native Essence.

4. 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.

5. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed herbal products to the public, including Native Essence (Rene Caisse) Formula (also called the “Native Essence Original Formula”), Native Essence Plus, Native Essence with Cat’s Claw, chaparral herb, Japanese Maitake mushrooms, and Mai-T Mushroom Plus. Respondents offer these products through the following Internet websites: [www.herbalformulas.com](http://www.herbalformulas.com), [www.herbalalternative.com](http://www.herbalalternative.com), [www.herbmed.com](http://www.herbmed.com), and [www.herbalremedy.com](http://www.herbalremedy.com). Native Essence Original Formula, Native Essence Plus, Native Essence with Cat’s Claw, chaparral herb, Japanese Maitake mushrooms, and Mai-T Mushroom Plus are “foods” and/or “drugs” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

6. Respondents promote their Native Essence Original Formula, Native Essence Plus, and Native Essence with Cat’s Claw products as a treatment or cure for lymphoma, colon, rectal, and prostate cancer, as well as for diabetes, ulcers and other ailments. Respondents promote chaparral herb, Japanese Maitake mushrooms, and Mai-T Mushroom Plus, which contains a mix of Japanese Maitake mushrooms, Red Reishi mushrooms, Shiitake mushrooms, Corydyceps fungus, Chinese Astragalus root, and Rose Hips, as products that can treat or cure cancer.

Native Essence Original Formula, Native  
Essence Plus, and Native Essence with Cat’s Claw

7. Respondents have disseminated or caused to be disseminated advertisements for their Native Essence Original Formula, Native Essence Plus, and Native Essence with Cat’s Claw products, including but not necessarily limited to the attached Exhibit A. These advertisements contain the following statements:

“Native Essence™ (Rene Caisse) Formula

...

Uses:

Thousands of people over the years have testified that Rene Caisse’s formula has cured their cancer, diabetes, ulcers and many other ailments. [Exhibit A, at 1]

...

#### Testimonials:

‘I was battling lymphoma for 10 years and was in horrendous pain. I began taking Native Essense™ Plus and began feeling better right away. After 4 months my blood was normal and I was not feeling pain anymore . . . I still take the Native Essense™ Plus everyday and have now been in remission for over a year.’  
Christiane B. [Exhibit A, at 2; ellipses in the original]

‘I am glad my wife is taking these herbs (Native Essense™ tea) you are giving her. It [sic] seems to be working, the cancer cells in her blood stream went from 10 to 1.05. Thank you very much for taking the time to talk with her and encouraging her to get well again.’ Bernard G. ‘My PSA count went down from 6.4 to 3.9 after 3 months and the only thing I did differently was to take the Native Essense™ with Cat’s Claw formula. I’m very happy with the progress and I’m going to continue using it.’  
Roland M. [Exhibit A, at 2]

...

‘I had colon and rectal cancer and they could do no more for me as I’d had 8 weeks of chemo and 11 days of radiation. I could take the radiation no more and they told me the chemo was not reaching the tumor. I started on Native Essense™, 2 ounces three times a day for four months then 2 ounces twice a day. After about six months a large tumor was expelled and after that about five more smaller ones. Comments from my Radiologist: ‘I’ve heard wonderful things about essiac.’ Comments from my nurse after reading my blood test: ‘This blood test is awesome for a woman with colon and rectal cancer.’  
Mary Helen H. [Exhibit A, at 2]

...

#### **Native Essense (essiac herbs) Ingredients**

...

#### **Ingredients**

**Original:** Burdock root, Sheep Sorrel herb, Slippery Elm bark, Turkish rhubarb root.  
**Plus adds:** Red Clover, Watercress, Blessed Thistle, Kelp/Bladderwrack.  
**With Cats Claw** adds Cats Claw bark to the Original.

...

**Sheep Sorrel herb** (*Rumex acetosella*)

...

Common Use: Throughout the centuries, the sorrels have appeared in historical archives as a folk remedy for cancer in both Europe and America. In the late 1740's, legislation was introduced in Williamsburg, Virginia, that permitted Mrs. Mary Johnson to use this plant as a treatment for cancer. . . . In 1926, the National Cancer Institute received a recipe from Canada citing an old Indian cure for cancer using a paste made with bread and the juice of sheep sorrel, applied externally. Thus, it would appear from early literature that the sorrels were used to treat cancer. Sorrel contains a high amount of nutrients including chlorophyll . . . The chlorophyll molecules that carry oxygen through the bloodstream may do the following: Inhibit chromosome damage to effectively block cancer, reduce the damage of radiation burns . . . [Exhibit A, at 4-5]

...

**Kelp** (*Laminaria species*) or **Bladderwrack** (*Fucus vesiculosus*)

...

Common Uses: . . .The extensive research done on this remarkable sea-weed has shown it to have anti-tumor properties (Japanese researchers have claimed kelp has been ‘conclusively proven to prevent breast cancer’), as well as antibiotic, antioxidant and antibacterial properties. [Exhibit A, at 7]

...

**Peruvian Cat’s Claw (Uña de Gato) bark** (*Uncaria tomentosa*)

...

Common Uses: This amazing vine from the Peruvian rain forest is offered in Peruvian pharmacies, the label states that the curative properties are almost unlimited. This is because the herb is considered a powerful cellular reconstitutor. Studies beginning in 1970 and continuing through today suggest it has applications in the treatment of cancer. . . [Exhibit A, at 7]

...”

[Exhibit A, portions of respondents’ website [www.herbmed.com/caisseinfo.html](http://www.herbmed.com/caisseinfo.html), as accessed on February 29, 2008]

8. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that:

- A. Native Essense Original Formula, Native Essense Plus, and Native Essense with Cat's Claw are effective in treating and curing cancer, including but not limited to lymphoma, colon cancer, rectal cancer, and prostate cancer;
- B. Native Essense Original Formula, Native Essense Plus, and Native Essense with Cat's Claw are effective in reducing the size of, or eliminating, cancerous tumors; and
- C. Native Essense Plus is effective in preventing breast cancer.

9. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made.

10. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made. Therefore, the representation set forth in Paragraph 9 was, and is, false and misleading.

11. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that:

- A. Scientific research proves that Native Essense Plus prevents breast cancer; and
- B. Scientific studies prove that Native Essense with Cat's Claw is effective in the treatment of cancer.

12. In truth and in fact:

- A. Scientific research does not prove that Native Essense Plus prevents breast cancer; and
- B. Scientific studies do not prove that Native Essense with Cat's Claw is effective in the treatment of cancer.

Therefore, the representations set forth in Paragraph 11 were, and are, false or misleading.

## Chaparral Herb

13. Respondents have disseminated or caused to be disseminated advertisements for their Chaparral herb extract, including but not necessarily limited to the attached Exhibit B. These advertisements contains the following statements:

**“Chaparral herb (*Larrea v. sp.*)**

...

Common Uses: For centuries, Native Americans have been using chaparral leaves and stems to treat a wide variety of ailments, including cancer . . . In folk medicine, chaparral has been used for leukemia and many different types of cancers. Many people with cancer have claimed tumor shrinkage or complete remission using only chaparral. The plant contains immune stimulating polysaccharides and a key ingredient nordihydroguaiaretic acid (NGDA) [sic.], which has been shown to have powerful antitumor properties. According to vol. 19 of Biochemical Pharmacology NGDA inhibits electron transport in the mitochondria, or ‘energy producing factories’ within cancer cells, thereby depriving tumors of the electrical energy they require to exist. . . .”

[Exhibit B, portions of respondents’ website [www.herbalformulas.com/chaparral.html](http://www.herbalformulas.com/chaparral.html), as accessed on February 29, 2008]

14. Through the means described in Paragraphs 13, respondents have represented, expressly or by implication, that:

- A. Chaparral herb is effective in treating and curing cancer;
- B. Chaparral herb is effective in causing people with cancer to go into complete remission, without the need for any other form of treatment; and
- C. Chaparral herb is effective in shrinking or eliminating cancerous tumors.

15. Through the means described in Paragraph 13, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 14, at the time the representations were made.

16. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 14, at the time the representations were made. Therefore, the representation set forth in Paragraph 15 was, and is, false and misleading.

Maitake Mushroom Extract and Mai-T Mushroom Plus Extract

17. Respondents have disseminated or have caused to be disseminated advertisements for their Maitake mushroom extract and Mai-T Mushroom Plus extract products, including but not necessarily limited to the attached Exhibit C. These advertisements contain the following statements:

**“Mai-T Mushroom Plus™ Ingredients**

...

**Immune, Adaptogenic and Whole Body Tonic.** The benefits shown by clinical trials performed on these mushrooms in China and Japan are far too numerous to list here. Among these include: the ability to inhibit many types of tumors, build bone marrow, aid in cancer prevention, stimulate the immune system on all levels, support people undergoing chemotherapy, stimulate circulation and help with coronary/heart disease. The Japanese government has officially listed Reishi as an adjunct herb for cancer . . . [Exhibit C, at 1]

...

**Ingredients:** Maitake mushroom, Reishi mushroom, Shiitake mushroom, Cordyceps fungus, Astragalus root and concentrated Rose Hips extract.

...

**Japanese Maitake mushroom** (*Grifola frondosa*)

...

Common Uses: A Maitake extract is being studied in medical clinics in the U.S. for patients with breast and colorectal cancers. In China, an extract of this mushroom demonstrated an anti-cancer effect in 63 patients with lung, stomach, hepatocellular cancers and leukemia. Dr. Joan Priestly MD, reports that her patients with Kaposi’s sarcoma and other symptoms of AIDS show improvement when administered the extract. When used consistently (3-5 times weekly), Maitake is said to aid in cancer prevention, immune stimulation in people with cancer, support people undergoing chemotherapy and benefit people with the AIDS virus. . . . [Exhibit C, at 1]

...

**Red Reishi mushroom** (*Ganoderma lucidum*)

...

Common Use: Red Reishi is in the most highly rated category of herbs (“Superior”), in terms of multiple benefits and lack of side effects, in Traditional Chinese Medicine. Here is a small list of some of the things it is claimed to benefit. Cancer, side effects of cancer treatments including radiation, chemo-therapy and surgery . . . [Exhibit C, at 1]

...

**Shiitake mushroom** (*Lentinus edodes*)

...

Common Use: Shiitake is used for any and all diseases involving depressed immune function, including cancer . . . [Exhibit C, at 2]

...

**Chinese Astragalus root** (*Astragalus membranaceus*) [*ingredient in Mai-T Mushroom Plus*]

...

Common use: . . . Astragalus root has also been indicated as an aid in the side effects of chemotherapy as well as having the ability to inhibit tumor growth. If taken cumulatively, especially with Chinese Ligustrum (Privet) fruit, it shows marked anti-tumor properties. [Exhibit C, at 3]

...”

[Exhibit C, portions of respondents’ website [www.herbalformulas.com/mitxpinfo.html](http://www.herbalformulas.com/mitxpinfo.html), as accessed on February 29, 2008]

18. Through the means described in Paragraph 17, respondents have represented, expressly or by implication, that:

- A. Mai-T Mushroom Plus is effective in preventing, treating and curing cancer, including but not limited to lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Kaposi’s sarcoma; and
- B. Mai-T Mushroom Plus is effective in inhibiting the growth of cancerous tumors.



19. Through the means described in Paragraph 17, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 18, at the time the representations were made.

20. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 18, at the time the representations were made. Therefore, the representation set forth in Paragraph 19 was, and is, false and misleading.

21. Through the means described in Paragraph 17, respondents have represented, expressly or by implication, that clinical studies prove that Maitake mushrooms and Mai-T Mushroom Plus prevent and treat lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Karposi's sarcoma, and inhibit tumor growth.

22. In truth and in fact, clinical studies do not prove that Maitake mushrooms and Mai-T Mushroom Plus prevent or treat lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Karposi's sarcoma, and inhibit tumor growth. Therefore, the representation set forth in Paragraph 21 was, and is, false and misleading.

23. The acts and practices 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.

\* \* \*

### **NOTICE**

Proceedings on the charges asserted against the respondents named in this complaint will be held before an Administrative Law Judge (ALJ) of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. Part 3. A copy of Part 3 of the Rules is enclosed with this complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the twentieth (20th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the ALJ shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the

proceeding. In such answer you may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and shall authorize the ALJ, without further notice to you, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

The ALJ will schedule an initial prehearing scheduling conference to be held not later than 7 days after the last answer is filed by any party named as a respondent in the complaint. Unless otherwise directed by the ALJ, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within 5 days of receiving a respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

Notice is hereby given to each of the respondents named in this complaint that a hearing before the ALJ on the charges set forth in this complaint will begin on December 16, 2008, at 10:00 a.m., or such other date and time as determined by the ALJ, in Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. At the hearing, you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations, in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

## ORDER

### DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “respondents” means Native Essence Herb Company, a corporation, its successors and assigns and its officers; Mark J. Hershisier, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation; and Marianne Hershisier, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation; and each of the above’s agents, representatives and employees.
2. “Commerce” means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
3. “Competent and reliable scientific evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
4. “Food” and “drug” mean “food” and “drug” as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
5. “Covered product or service” means any food, dietary supplement, or drug, including, but not limited to, Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract, or any other health-related product, service, or program.
6. “Endorsement” means as defined in 16 C.F.R. § 255.0(b).

#### I.

IT IS ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale, or distribution of Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract, or any substantially similar product or any other covered product or service, in or affecting commerce, shall not represent, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, that:

- A. Such product is effective in the treatment or cure of cancer;
- B. Such product prevents or lowers the risk of cancer;
- C. Such product is effective in reducing the size of, or eliminating, cancerous tumors;  
or
- D. Such product is safe or non-toxic or has no side effects;

unless the representation is true, non-misleading, and, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

## II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, about the efficacy, performance, or health-related benefits of any covered product or service, unless the representation is true, non-misleading, and, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

## III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

## IV.

IT IS FURTHER ORDERED that:

- A. Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for such drug under any tentative or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and

- B. Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

V.

IT IS FURTHER ORDERED that:

- A. Respondents shall, within seven (7) days after the date of service of this order, deliver to the Commission a list, in the form of a sworn affidavit, of all consumers who purchased Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cat's Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula, on or after January 1, 2005 through the date of service of this order. Such list shall include each consumer's name and address, the product(s) purchased, and, if available, the consumer's telephone number and email address;
- B. Within forty-five (45) days after the date of service of this order, respondents shall send by first class mail, postage prepaid, an exact copy of the notice attached as Attachment A to all persons identified in Part V.A. The face of the envelope containing the notice shall be an exact copy of Attachment B. The mailing shall not include any other documents; and
- C. Except as provided in this order, respondents, and their officers, agents, servants, employees, attorneys, and representatives shall not sell, rent, lease, transfer, or otherwise disclose the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any respondent, at any time prior to issuance of this order, in connection with the purchase of Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cats Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus extract. *Provided, however,* that respondents may disclose such identifying information to the FTC pursuant to Part V.A, above, or any law enforcement agency, or as required by any law, regulation, or court order.

VI.

IT IS FURTHER ORDERED that respondents shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. A specimen copy of all advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VII.

IT IS FURTHER ORDERED that respondent Native Essence Herb Company, and its successors and assigns, and respondents Mark J. Hershiser and Marianne Hershiser shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying a copy of each signed statement acknowledging receipt of the order.

VIII.

IT IS FURTHER ORDERED that respondent Native Essence Herb Company, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

IX.

IT IS FURTHER ORDERED that respondents Mark J. Hershiser and Marianne Hershiser, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of their current business or employment, or of their affiliation with any new business or employment. The notice shall include respondents' new business address and telephone number and a description of the nature of the business or employment and their duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

X.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

XI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had

never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

THEREFORE, the Federal Trade Commission this sixteenth day of September, 2008, has issued this complaint against respondents.

By the Commission.

Donald S. Clark  
Secretary

SEAL:



**ATTACHMENT A**  
**LETTER TO BE SENT BY FIRST CLASS MAIL**  
[To be printed on letterhead of Native Essence Herb Company]

[Name and address of recipient] [Date]

Dear [Recipient]:

Our records show that you bought Native Essence (Rene Caisse or essiac herbs) Formula, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, and/or Mai-T Mushroom Plus Formula from one of our websites, [www.herbalformulas.com](http://www.herbalformulas.com), [www.herbmed.com](http://www.herbmed.com), [www.herbalalternative.com](http://www.herbalalternative.com), and [www.herbremedy.com](http://www.herbremedy.com). We are writing to tell you that the Federal Trade Commission ("FTC") has found that our advertising claims for these products were false or unsubstantiated, and has issued an Order prohibiting us from making those claims in the future. The Order entered against us also requires that we send you the following information about the scientific evidence on these products.

Very little scientific research has been done concerning Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus as a treatment or cure for cancer in humans. The scientific studies that have been done do not demonstrate that Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus, or the ingredients in these products, are effective when used as treatments for cancer.

It is very important that you talk to your doctor or health care provider before using *any* alternative or herbal product, including Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus. Speaking with your doctor is important to make sure that all aspects of your medical treatment work together. Things that seem safe, such as certain foods, herbs, or pills, may interfere or affect your cancer or other medical treatment, or other medicines you might be taking. Some herbs or other complementary or alternative treatments may keep your medicines from doing what they are supposed to do, or could be harmful when taken with other medicines or in high doses. It also is very important that you talk to your doctor or health care provider before you decide to take any alternative or herbal product, including Native Essence, Native Essence Plus, Native Essence with Cat's Claw, Chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus, instead of taking conventional cancer treatments that have been scientifically proven to be safe and effective in humans.

If you would like further information about complementary and alternative treatments for cancer, the following Internet web sites may be helpful:

1. The National Cancer Institute: [www.cancer.gov/cancertopics/pdq](http://www.cancer.gov/cancertopics/pdq); or
2. The National Center for Complementary and Alternative Medicines: [www.nccam.nih.gov](http://www.nccam.nih.gov)

You also can contact the National Cancer Institute's Cancer Information Service at 1-800-4-CANCER or 1-800-422-6237.

Sincerely,

**ATTACHMENT B**

Native Essence Herb Company  
P.O. Box 189  
Carson, New Mexico 87517

[name and address of purchaser]

**GOVERNMENT ORDERED NOTICE**