



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Consumer Protection  
Division of Advertising Practices

May 31, 2011

Ivan J. Wasserman, Esq.  
Manatt, Phelps & Phillips, LLP  
700 12<sup>th</sup> Street, N.W., Suite 1100  
Washington, D.C. 20005

Re: Gerawan Farming, Inc., File No. 102-3248

Dear Mr. Wasserman:

As you are aware, the staff of the Federal Trade Commission conducted an investigation into possible violations of Section 5 of the Federal Trade Commission Act by your client, Gerawan Farming, Inc., in connection with certain claims about the health benefits of peaches and plums. Specifically, the staff was concerned that Gerawan did not possess adequate substantiation for breast cancer claims made as part of the 2010 "My Fruit My Body" advertising campaign in which Gerawan and other fruit growers participated.

The campaign included claims that peaches and plums have been scientifically proven to treat or cure breast cancer in humans by aggressively killing cancer cells without harming normal cells. Claims on the campaign's web site and in other marketing materials, including viral videos and press releases, touted a study conducted at Texas A&M University looking at the effects of peach and plum extract on breast cancer cells *in vitro*. No other evidence was provided by Gerawan to support the specific breast cancer claims. It is the staff's opinion that Gerawan has not adequately substantiated the claims that eating peaches and plums will help to prevent, treat, or cure breast cancer. In fact, the single *in vitro* study falls far short of the FTC's requirement that such claims be substantiated by competent and reliable scientific evidence.

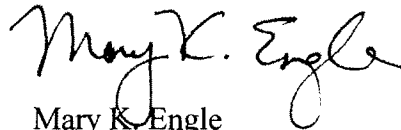
The staff was particularly concerned about the history of the ad campaign. The "My Fruit My Body" campaign was originally developed by the California Tree Fruit Agreement ("CTFA"), an association of peach, plum, and other stone fruit growers and handlers, of which Gerawan is a member. CTFA markets peaches, plums, and other stone fruit pursuant to a federal marketing order administered by the U.S. Department of Agriculture's Agricultural Marketing Services ("AMS"). Under that marketing order, AMS has the authority to approve and fund marketing campaigns. In this instance, however, AMS refused to approve the campaign developed by CTFA. AMS staff explicitly advised CTFA that it would not approve the campaign because the Texas A&M *in vitro* study was not adequate support for the breast cancer claims. CTFA abandoned the campaign after the AMS decision. However, Gerawan and other individual peach and plum growers and handlers proceeded to privately launch the "My Fruit My Body" campaign with the same breast cancer claims.

Ivan J. Wasserman, Esq.  
May 31, 2011  
Page 2

Although the staff is concerned that Gerawan and others circumvented the AMS approval process and launched a campaign with claims that the FTC staff believes to be unsubstantiated, we have decided to close this investigation. The staff notes that the campaign was limited primarily to the Internet and was short-lived, lasting for approximately three months. Gerawan and the others involved took the web site and videos down after being contacted by the FTC. The staff also notes that, although the strong and specific breast cancer claims made in this campaign were not supported, the Food and Drug Administration has determined that there is adequate science to support more general health claims about the benefits of consuming diets low in fat and high in fruits, including peaches and plums, for reducing the risk of some types of cancer.<sup>1</sup> Accordingly, it now appears that no further action is warranted by the Commission at this time and the investigation is closed. The staff appreciates Gerawan's cooperation in the prompt resolution of this matter.

This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination the a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,



Mary K. Engle  
Associate Director

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<sup>1</sup>See 21 C.F.R. § 101.78 (FDA-approved health claim for fruits and vegetables and cancer).