



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

Division of Advertising Practices

Mary Koelbel Engle
Associate Director

March 15, 2004

Paul M. Hyman, Esq.
Hyman, Phelps & McNamara, P.C.
700 Thirteenth Street, NW, Suite 1200
Washington, D.C. 20005

Re: Shape Up!, File No. 042 3004

Dear Mr. Hyman:

As you know, the staff of the Federal Trade Commission conducted an investigation into whether CSA Nutraceuticals, LP ("CSA") and others violated Sections 5 and 12 of the FTC Act in connection with certain claims made in their advertising and promotion of the Shape Up! With Dr. Phil McGraw™ Apple, Pear, and Intensifier dietary supplement products. Our inquiry focused on whether CSA and others possessed adequate substantiation for claims, among others, that the products enabled users to lose excess fat in targeted areas of the body and that a program of diet and exercise, when combined with use of the Shape Up! products, reduced weight more than a program of diet and exercise alone.

You have informed us that CSA has agreed to cease making any weight loss claims for the Apple, Pear, and Intensifier products, and has ceased distribution of the products to retailers. In addition, you have informed us that CSA has no plans to re-introduce the Apple, Pear, or Intensifier products for sale.

Accordingly, it now appears that no further action is warranted by the Commission at this time and the investigation is closed. The staff appreciates CSA'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 that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,

A handwritten signature in cursive script that reads "Mary K. Engle".

Mary K. Engle
Associate Director