

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of

MICHAEL D. MILLER, individually and d/b/a Natural Heritage Enterprises.

DOCKET NO. C-3941

COMPLAINT

The Federal Trade Commission, having reason to believe that Michael D. Miller ("respondent"), individually and doing business as Natural Heritage Enterprises, has 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 Michael D. Miller is a resident of Colorado. His principal office or place of business is 183 Bellevue Overlook, Crestone, Colorado 81131. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the business operating under the trade name "Natural Heritage Enterprises."

2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including "Rene Caisse's Original Herbal Tea Remedy," including by means of three Internet Web sites, www.essiacsource.com, www.cancerinformation.org, and www.remedies.net, which provide product and purchase information. "Rene Caisse's Original Herbal Tea Remedy" is also described as "Rene Caisse's Essiac Tea" or "Essiac Tea," and is referenced herein as "Essiac Tea." Essiac Tea is a mixture of four herbs (burdock root, sheep sorrel, rhubarb root, and slippery elm bark) sold either alone or in combination with additional herbs. Essiac Tea is either a "food" or a "drug" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

4. Respondent has disseminated or has caused to be disseminated, via the Internet among other means, advertisements for Essiac Tea, including but not necessarily limited to the attached Exhibits A through H. These advertisements contain the following statements:

A. "I got into this business in 1992 when I found out that the herbal remedy, an Ojibway herbal tea, really did help sick people. . . . As time went on, we were also pleasantly surprised to find out that our herbal tea also works for other immune system related illnesses such as lupus, leukemia, chronic fatigue syndrome, multiple sclerosis, diabetes, lymphoma, Hiv & Aids [sic], etc. . . .

One of the things that we have learned from our customers is that our herbal tea also works on pets. Dogs and cats with cancer and tumors have been cured. Feline leukemia too. Any illness which is effected by a lowered or weakened immune system seems to respond well to our herbal remedy. . . . An exciting part of our business is hearing from our customers that a terminal illness has been conquered.

Yes, we hear an amazing litany of stories about people and pets making complete comebacks."

Excerpt of Advertisement on Linked Web Site Page [Exhibit A]

B. "What To Do For a Cancerous Condition in the Prostate

If your prostate is already cancerous, you may wish to consider a holistic alternative medicine using an herbal remedy. For additional information about this herbal approach: Click Here to Learn About This Herbal Approach." [hyperlinks to www.essiacsource.com> homepage]

Excerpt of Advertisement on Linked Web Site Page [Exhibit B]

C. "For some 60 years Essiac has been known to be an effective natural herbal remedy and therapy."

Excerpt of Advertisement on Linked Web Site Page [Exhibit C]

D. "Testimonials From Essiac Users

I began taking Essiac for severe arthritis and severe fatigue. The results are unbelievable! . . . The results are wonderful. The results were also immediate. . . .

My Brother-in law gave me a bottle of Essiac. I enjoyed the taste, soon realized a 20 year stomach problem was gone. . . . My nephew in Wisconsin learned that he had cancer. . . . He takes the tea faithfully, and one year later all is in remission. . . .

I took Essiac for prostate cancer. Under doctor's orders I was given chemotherapy. I also took Essiac, and as a result the PSA rating went down below zero (0). I took the combination for 16 months and when it held below zero I quit the chemotherapy. . . .

I had ovarian cancer which was diagnosed as widespread. . . . I had found an article about Essiac and told the doctors I was going to try it. Well the results have been remarkable. I had lost over sixty-two pounds, and have now gained over sixteen back. . . . I do not believe that I would be alive now if it had not been for Essiac. . . .

I had breast cancer. I started taking Essiac 3 weeks prior to my first chemotherapy session. Every side effect that was predicted I would have were so-o-o diminished that I hardly noticed them. My blood work, both chemistry and hemo[] were, I was told, FANTASTIC for a chemotherapy patient. . . ."

Excerpt of Advertisement on Linked Web Site Page [Exhibit D]

E. "What kind of Clinical Trials or Tests have been done on Rene Caisse's Essiac Tea?

In 1937, Rene Caisse presented her Ojibway herbal formula to the Royal Cancer Commission in Canada. After a thorough study, their report stated that 'Essiac is a cure for cancer'. In the 1950s, Dr. Charles Brusck (John F. Kennedy's personal physician) conducted trials in his clinic at Cambridge, Massachusetts. After

studying Essiac tea for a number of years, he reported 'Essiac is a cure for cancer, period'. . . .

Will your herbal remedy cure xxxxxxxx illness?

[This question always places us in a difficult position. In meetings with FDA officials, we have been specifically told that we cannot in any way tell anyone that our herbal remedies will cure any specific disease or illness. For instance, we cannot even mention that Essiac is a remedy for cancer, much less state that it cures cancer in some people. . . .]"

Excerpt of Advertisement on Web Site Frequently Asked Questions Page [Exhibit E]

F. "Important Information for All who are Interested in facts about HIV and AIDS

. . . In 1993 Dr. Gary Glum of Los Angeles worked with a Los Angeles AIDS project. The project had sent 179 AIDS patients home to die. They had pneumocystis carini and histoplasmosis. Their weight was down and their cell counts were less than ten.

The project gave Dr. Glum five of these patients to work with. He took them off AZT and put them on a protocol of taking 2 ounces of Essiac herbal remedy tea three times a day. By February of 1994 all of the other 174 patients had died. Dr. Glum's five patients were still alive. They were exercising, eating three meals a day, xl of plrked[(projeAngeles)[(three)Btgel56(hir)-21(-28(otEect)-35(g -23.625 By)-20(Febalive.

herbs thyroid fibromyalgia, brain tumors, Brain Tumors, natural colon cures, colon remedies, lymphoma information, diabetes, information, ovarian treatments, herbal remedies, herbal remedy, herbal teas, remedy, immune systems remedy, immune system, breast, fatigue, help thyroid, lupus teas, breast cancer, breast solutions, prostate answers, prostate prostate solutions lung liver healing lymphoma diabetes ovarian chronic lung immune systems liver leukemia solutions lung therapy liver cures leukemia leukemia leukemia cures books herbs books rene caisse diabetes healing Rene Caisse arthritis holistic options holistic answers holistic arthritis Rene caisse,">"

Keyword Metatags from www.essiacsource.com Web Site [Exhibit H]

5. In addition to the representations detailed above, respondent has embedded specific disease references in the "metatags" of respondent's Internet Web site, <www.essiacsource.com>. A metatag is a word or words embedded in an Internet Web site, which are not normally displayed visually to the consumer, that may be used by an Internet search engine for the purpose of selecting sites in response to an Internet user's search request. Disease references appearing only in the metatags and not in the Web pages displayed visually to the consumer include, among others, the following terms: "natural colon treatments," "thyroid," "fibromyalgia," "natural colon cures," and "colon remedies."

Respondent's use of these metatag references increases the likelihood that consumers who research the topics of fibromyalgia and cures for illnesses relating to the colon on the Internet will find information about Essiac Tea.

6. Furthermore, in the descriptions of the image files that pop up on the viewer's screen when a consumer rolls the mouse over an image on the <www.essiacsource.com> site ("mouseover text"), the following descriptions appear:

- "breast, colon, cancer cures. chronic fatigue syndrome, HIV AIDS, lung liver cancer."
- "Cures cancer, leukemia, lymphoma. Cures lupus, breast, prostate cancer."
- "Essiac. tea. cures brain cancer.gif"
- "Essiac tea cures diabetes, bone, liver, colon, brain cancer, tumors, ovarian cancer."

Respondent thus used mouseover text as an additional means to communicate representations to the consumer viewing the <www.essiacsource.com> Web site.

7. Through the means described in Paragraphs 4, 5, and 6, taken together, respondent has represented, expressly or by implication, that Essiac Tea is effective in the treatment or cure of cancer, leukemia, brain tumors, lymphoma, bone cancer, ovarian cancer, breast cancer, prostate cancer, diseases of the colon, thyroid conditions, fibromyalgia, diabetes, lupus, chronic fatigue syndrome, multiple sclerosis, HIV and AIDS, arthritis, diseases affecting the lungs and liver, any illness which is affected by a lowered or weakened immune system, and certain pets' illnesses, including cancer, tumors, and feline leukemia.

8. Through the means described in Paragraphs 4, 5, and 6, taken together, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 7, at the time the representations were made.

9. In truth and in fact, respondent did not possess and rely upon a reasonable basis that

