

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Civ. No.

NPB ADVERTISING, INC., a corporation,
also d/b/a Pure Green Coffee;
NATIONWIDE VENTURES, LLC, a limited
liability company;
OLYMPUS ADVERTISING, INC., a
corporation;
JMD ADVERTISING, INC., a corporation;
SIGNATURE GROUP, LLC, a limited liability
company;
NICHOLAS SCOTT CONGLETON,
individually and as an owner and managing
member of NPB Advertising, Inc., Nationwide
Ventures, LLC, Olympus Advertising, Inc.,
JMD Advertising, Inc., and Signature Group,
LLC;
PAUL DANIEL PASCUAL, individually and
as an owner and managing member of NPB
Advertising, Inc., Nationwide Ventures, LLC,
Olympus Advertising, Inc., JMD Advertising,
Inc., and Signature Group, LLC; and
BRYAN BENJAMIN WALSH, individually
and as an owner, officer, and managing
member of NPB Advertising, Inc., Olympus
Advertising, Inc., and JMD Advertising, Inc.,
and as an owner and managing member of
Nationwide Ventures, LLC, and Signature
Group, LLC,

Defendants.

DEFENDANTS

6. Defendant NPB Advertising, Inc., also doing business as Pure Green Coffee, is a Florida corporation with a place of business in the Middle District of Florida. NPB Advertising, Inc., transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, NPB Advertising, Inc., has advertised, marketed, distributed, or sold Pure Green Coffee, a dietary supplement, to consumers throughout the United States. In that capacity, NPB Advertising, Inc., also has conducted business as Bungo Media, Quest Laboratories, GreenCoffee888496381, and Nation Wide Ventures.

7. Defendant Nationwide Ventures, LLC, is a Wyoming limited liability company, with a registered address of 123 West First Street, Suite 675, Casper, Wyoming 82601, and a place of business in the Middle District of Florida. Nationwide Ventures, LLC, transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Nationwide Ventures, LLC, has advertised, marketed, distributed, or sold Pure Green Coffee to consumers throughout the United States. In that capacity, Nationwide Ventures, LLC, also has conducted business as Nation Wide Ventures, LLC, Pure Green Coffee, Bungo Media, and Quest Laboratories.

8. Defendant Olympus Advertising, Inc., is a Florida corporation with a place of business in the Middle District of Florida. Olympus Advertising, Inc., transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Olympus Advertising, Inc., has advertised, marketed, distributed, or sold Pure Green Coffee to consumers throughout the

in this Complaint. In connection with these activities, Defendant Congleton used the aliases Mike Jackson, Nick Scott, and Bungo Media, and he has held himself out as president of Nationwide Ventures, LLC. Defendant Congleton, along with Defendant Paul Daniel Pascual, has had primary responsibility for advertising Pure Green Coffee. Congleton resides in this district and in connection with the matters alleged here, transacts or has transacted business in this district and throughout the United States.

12. Defendant Paul Daniel Pascual ("Pascual") has a substantial ownership interest in and has played a leading management role in NPB Advertising, Inc.; Nationwide Ventures, LLC; Olympus Advertising, Inc.; JMD Advertising, Inc.; and Signature Group, LLC. All times material to this Complaint, acting as

Defendant Walsh also is president of NPB Advertising, Inc., and Olympus Advertising, Inc., and vice president of JMD Advertising, Inc. At times material to this Complaint, and in alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of NPB Advertising, Inc.; Nationwide Ventures, LLC; Olympus Advertising, Inc.; JMD Advertising, Inc.; and Signature Group, LLC, including the acts and practices set forth in this Complaint. In connection with these activities, Defendant Walsh has used the aliases Mike Jackson and Bungo Media. Defendant Walsh has had primary responsibility for the daily operations related to Pure Green Coffee sales and has responded to complaints from the Better Business Bureau. Defendant Walsh resides in this district and in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

14. Defendants NPB Advertising, Inc.; Nationwide Ventures, LLC; Olympus Advertising, Inc.; JMD Advertising, Inc.; and Signature Group, LLC, (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in deceptive acts and practices alleged below. Defendants have conducted the business practices described below through an interrelated network of closely held companies that have substantially overlapping ownership, have officers and managers in common and share employees, office locations, and payment processing and other business functions. Because Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendants Congleton, Pascual, and Walsh ("Individual Defendants") have formulated, directed, controlled, had the authority to

control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

COMMERCE

15. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS'3 TD

[Guest Dr. Lindsey Duncan speaking:] . . . So, and the medical community, the weight-loss community is all buzzing about this, and here's why. The recent study

Defendants Begin Marketing Pure Green Coffee.

18. Within weeks of The Dr. Oz Show episode described above, Defendants began

- A. I lost 17 lbs and reduced body fat by 16% in 22 weeks – thanks to chlorogenic acid found in green coffee beans.
- B. 1 Tip to Lose Belly Fat
Cut Pounds of Stomach Fat Every Week By Using This 1 Weird Old Trick
www.buypuregreencoffee.com
- C. Drop 3 Dress Sizes
Buy Pure Green Coffee
Discover the Shocking Truth About AMERICA's Healthiest Diet – edipa()-1 ouE41(e)-6(1e)

- D. Buy 3 months and get 2 FREE bottles . . . Lose up to 30 lbs and 16 inches of belly fat!
- E. Buy 2 months and get 1 FREE bottle . . . Lose up to 20 lbs and 12 inches of belly fat!

too. So, very fast shipping. And I would highly recommend it to anyone that's just looking to burn a few pounds. So yeah, go ahead and check it out.

- C. [Third video:] Hi, my name's Jess, and I'm from the UK. And I want to tell you how I've lost so much weight. I have tried everything under the sun and nothing really seemed to work for me. And then I was watching Dr. Oz and I actually saw something which people had said had worked. So,

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the reports. The “responses” and “comments” following the reports are simply additional advertising content, not independent statements from ordinary consumers.

Defendants Use Vinson Study to Claim that
Pure Green Coffee Causes

six-week treatment arm followed by a second two-week washout period in which they took no capsules, and (c) a third six-week treatment arm.

35. The Vinson study claims that, at the end of two weeks, the sixteen subjects had lost, on average, 17.7 pounds (8.04 kilograms), 10.5% of their body weight and 16% of their body fat. Two fundamental flaws are apparent on the face of the Vinson study. First, WKH P D M R U L W \ R I W K H Z H L J K W (4.8 kilograms) occurred outside of any treatment arms, during the two, two-week washout periods. Compare Ex. 10 at Table 1 (indicating weight and other changes over two weeks) -

38. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

39. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, Pure Green Coffee is either a “food drug” as defined in Section 15(b) and (c) of the FTC Act, 15 U.S.C. § 55(b) and (c).

Count I

False or Unsubstantiated Efficacy Claims

40. Through the means described in Paragraphs 18 through 31, Defendants have represented, directly or indirectly, expressly or by implication, that Pure Green Coffee causes substantial weight loss and fat loss, or rapid and substantial weight loss and fat loss, including:

- A. Lose seventeen pounds in twenty weeks;
- B. Lose seventeen pounds in twelve weeks;
- C. Lose 16% of body fat in twenty weeks;
- D. Lose 16% of body fat in twelve weeks;
- E. Lose twenty pounds in four weeks;
- F. Lose twentyseven pounds in nine weeks without diet or exercise;
- G. Lose ten pounds and one to two inches of belly fat in one month;
- H. Lose twenty pounds and two to four i

I. Lose thirty pounds and four to six inches of belly fat in three to five months.

41. The representations set forth in Paragraph 40 are false or were not substantiated at the time the representations were made.

42. Therefore, the making of the representations as set forth in Paragraph 40 constitutes a deceptive act or practice and the making of false advertisements or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

Count II

False Proof Claims

43. Through the means described in Paragraphs 21 through 23, and 26 through 32, Defendants have represented, directly or indirectly, expressly or by implication, that clinical study proves that Pure Green Coffee, or a dietary supplement with substantially the same formulation, causes substantial weight loss, or rapid and substantial weight loss, including, but not limited to, an average weight loss of seventeen pounds in twelve weeks, or an average weight loss of seventeen pounds in twenty-two weeks, and reduces overall body weight by 10.5% and overall body fat by 16% without diet or exercise.

44. In truth and in fact, a clinical study does not show that Pure Green Coffee causes substantial weight loss, or rapid and substantial weight loss, including, but not limited to, an average weight loss of seventeen pounds in twelve weeks, or an average weight loss of seventeen pounds in twenty-two weeks, and reduces overall body weight by 10.5% and overall body fat by 16% without diet or exercise.

45. Therefore, the making of the representation as set forth in Paragraph 43 constitutes a deceptive act or practice and the making of false advertisements or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

Count III

Failure to Disclose Material Connection (Testimonials)

46. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of Pure Green Coffee, Defendants, directly or indirectly, have represented, expressly or by implication, through the means described in Paragraph 24, that consumers appearing in advertisements for Pure Green Coffee are satisfied users of Pure Green Coffee who purchased the product independently.

47. In numerous instances in which Defendants have made the representations set forth in Paragraph 46, they have failed to disclose that certain of the consumers appearing in their advertisements were provided Pure Green Coffee for free and were paid to provide a video testimonial regarding their purported experience using the product. This fact would have been material to consumers in deciding whether to purchase Pure Green Coffee.

48. Defendants' failure to disclose the material information described in Paragraph 47, in light of the representations described in Paragraph 24, constitutes a deceptive act or practice and the making of false advertisements or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

53. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress

