

2023114

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Joseph J. Simons, Chairman
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, and makes the following Findings and issues the following Order:

Findings

1. The Respondents are:

- a. Respondent Bionatrol Health, LLC (“Bionatrol”) is a Utah corporation with its principal place of business at 1269 W. Spencer Rd., Pleasant Grove, Utah 84062. Bionatrol’s business registration with the State of Utah expired on May 14, 2020.
- b. Respondent Isle Revive, LLC (“Isle Revive”), also doing business as Isle Revive CBD, is a Utah corporation with its principal place of business at 1269 W. Spencer Rd., Pleasant Grove, Utah 84062. The company’s business registration status with the State of Utah is in delinquent status. Isle Revive processed payments from consumers who purchased CBD products from Bionatrol and, as recently as April 2020, offered Bionatrol Full-Spectrum CBD Oil Extract for sale at www.islrevivecbd.com.
- c. Respondent Marcelo Torre has managed Bionatrol and serves as the controller.

ORDER

DEFINITIONS

For purposes of this Order, the following definitions apply:

- A. "Billing Information " means any data that enables any person to access a customer's account, such as a credit card, checking, savings or similar account, utility bill, mortgage loan account, or debit card.
- B. "CBD Product" means any Dietary Supplement, Food, or Drug containing cannabidiol.
- C. "Charge," "Charged," or "Charging" means any attempt to collect money or other consideration from a consumer, including causing Billing Information to be submitted for payment, including against the consumer's credit card, debit card, bank account, telephone bill, or other account.
- D. "

6. The disclosure must comply with the requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
 7. The disclosure must not be contradicted, mitigated by, or inconsistent with, anything else in the communication.
 8. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, "ordinary consumers" includes reasonable members of that group.
- E. "Covered Product(s)" means any Dietary Supplement

experts in the field indicates that the amount and combination of additional ingredients is unlikely to impede or inhibit the effectiveness of the ingredients in the Essentially Equivalent Product.

- J. "Food" means (1) any article used for Food or drink for humans or other animals; (2) chewing gum; and (3) any article used for components of any such article.

PROVISIONS

I. PROHIBITED REPRESENTATIONS: REGARDING HEALTH-RELATED CLAIMS REQUIRING HUMAN CLINICAL TESTING FOR SUBSTANTIATION

IT IS ORDERED that Respondents, Respondents' officers, agents, employees, and

- C. documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;
- D. all documents referring or relating to statistical analysis of any test data, including any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and
- E. all documents referring or relating to sponsorship of the test, including all communications and contracts between sponsor and the test's researchers.

Provided, however, the preceding preservation requirements do not apply to a reliably reported test, unless the test was conducted, controlled, or sponsored, in whole or in part by: (1) any Respondent; (2) any Respondent's officers, agents, representatives, or employees; (3) any other person or entity in active concert or participation with any Respondent; (4) any person or entity affiliated with or acting on behalf of any Respondent; (5) any supplier of any ingredient contained in the product at issue or any of the foregoing or to the product's manufacturer; or (6) the supplier or manufacturer of such product.

For purposes of this Provision, "reliably reported test" means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

For any test conducted, controlled, or sponsored in whole or in part, by Respondents, Respondents must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures must be documented in writing and must contain administrative, technical, and physical safeguards appropriate to Respondents' size and complexity, the nature and scope of Respondents' activities, and the sensitivity of the personal information collected from or about the participants.

IV. PROHIBITED MISREPRESENTATIONS REGARDING TESTS, STUDIES, OR OTHER RESEARCH

IT IS FURTHER ORDERED that

2. treat, alleviate, or cure age-related cognitive decline; anxiety; bipolar disorder; pain, including arthritis; depression; heart disease; hypertension; inflammation; insomnia; or migraines; or
 3. prevent age-related cognitive decline; anxiety; , including arthritis pain; heart disease; hypertension; inflammation; insomnia; or migraines;
- B. that the performance or benefits of Covered Product are scientifically or clinically proven or otherwise established; or
 - C. the existence, contents, validity, results, conclusions, or interpretations of any test, study, or other research.

V. PROHIBITED MISREPRESENTATIONS ABOUT THE COST OF A GOOD OR SERVICE

IT IS FURTHER ORDERED that Respondents, Respondents' officers, agents,

- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the Complaint establish the elements necessary to sustain an action by or on behalf of the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for relief, including consumer redress and any administrative expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Respondents' past alleged in the Complaint. Any money not used is to be deposited to the U.S. Treasury. Corporate Respondents and Individual Respondent Torre have no right to challenge any activities pursuant to this Provision.
- E. In the event of default on any obligation to make payment under this Order, interest, computed as if pursuant to 28 U.S.C. § 1961(a), accrue from the date of default to the date of payment. In the event such default continues for 10 days beyond the date that payment is due, the entire amount will immediately become due and payable.
- F. Each day of nonpayment is a violation through continuing failure to obey or neglect to obey a final order of the Commission and thus will be deemed a separate offense and violation for which a civil penalty shall accrue.
- G. Corporate Respondents and Individual Respondent Torre acknowledge that their Taxpayer Identification Numbers (Social Security or Employer Identification Numbers), which those Respondents have previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

X. NOTICES TO CUSTOMERS

IT IS FURTHER ORDERED that Corporate Respondents and Individual Respondent Torre ("They") must notify customers as follows:

- A. They must identify all consumers who purchased CBD Products on or after June

1. Such eligible customers, and their contact information,

Respondents, is the majority owner ~~ontrols~~ controls directly or indirectly, and each Corporate Respondent, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for ~~labor~~ labor, manufacturing, advertising, marketing, promotion, distribution, offering for sale, sale of any Covered Product and all

specified below. Specifically, Corporate Respondents and each Individual Respondent for any business that such Respondent, individually or collectively with any other Respondents, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenue from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;
- B. personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; and (if applicable) the reason for termination;
- C. copies or records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. all records necessary to demonstrate compliance with each provision of this Order, including all submissions to the Commission;
- E. a copy of each unique advertisement or other marketing material making a representation subject to this Order;
- F. for 5 years from the date of the last dissemination of any representation covered by this Order:
 - 1. all materials that were relied upon in making the representation; and
 - 2. all tests, studies, analysis, other research, or other such evidence in Respondents' possession, custody, or control that contradicts, qualifies, or otherwise calls 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;
- G. for 5 years from the date received, copies of all subpoenas and other communications with law enforcement if such communications relate to Respondents' compliance with this Order; and
- H. for 5 years from the date created or received, all records, whether prepared by or on behalf of Respondents, that tend to show any lack of compliance by Respondents with this Order.

XIV. COMPLIANCE MONITORING

- A. Within 10 days of receipt of a written request from a representative of the Commission, each Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.
- B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with each Respondent. Respondents must permit representatives of the Commission to interview anyone affiliated with any Respondent who has agreed to such an interview. The interviewee may have counsel present.
- C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, other individuals or entities, to Respondents or any individual or entity affiliated with Respondents, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
- D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Individual Respondents, pursuant to Section 604(2) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(2).

XV. ORDER EFFECTIVE DATES

date such dismissal or ruling is upheld on appeal.

By the Commission.

April J. Tabor
Acting Secretary

SEAL:
ISSUED: