



Internet Marketers of Acai Berry Weight-Loss Pills and "Colon Cleansers" to Pay \$1.5 Million to Settle FTC Charges of Deceptive Advertising and Unfair Billing

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FOR RELEASE

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The Federal Trade Commission announced that an operation that marketed acai berry supplements, "colon cleansers," and other products using allegedly fraudulent free trial offers and phony endorsements from Oprah Winfrey and Rachael Ray will pay \$1.5 million as part of a settlement. The money will be made available for consumer refunds.

The case against [Phoenix-based Central Coast Nutraceuticals, Inc.](#), is part of the FTC's ongoing efforts to protect consumers from fraudulent internet marketing, as well as false and misleading health claims. The settlement order bans the defendants from so-called "negative-option" sales, such as continuity plans and free or introductory price trial offers, in which consumers pay nothing up front or only a small fee to receive a product, but are then automatically charged a higher price unless they take steps to cancel the shipments, or return the product before the end of the trial period.

The 2010 FTC [complaint](#) alleged that two individuals and five related companies deceptively claimed that their Acai Pure supplement would cause rapid and substantial weight loss, and that their Colotox colon cleanser would prevent colon cancer. Also, despite claiming to offer a "free" trial for a nominal fee and full refunds upon request, the defendants allegedly repeatedly made unauthorized charges to consumers' bank accounts, and made it all but impossible to avoid paying full price for the products, typically \$39.95 to \$59.95.

The FTC charged that the defendants violated the Federal Trade Commission Act, as well as the Electronic Fund Transfer Act and its implementing language, Regulation E.

At the request of the FTC in August 2010, a federal court halted the allegedly illegal conduct of the Central Coast Nutraceuticals defendants, imposed an asset freeze, and appointed a receiver to oversee the corporate defendants.

The settlement order against the defendants includes an \$80 million judgment, which represents the total amount of consumer injury caused by their scheme. The monetary judgment will be suspended when the FTC receives assets worth approximately \$1.5 million from the defendants.

The settlement order requires defendant Graham D. Gibson to pay the FTC the balance of his investment account; transfer to the FTC \$500,000 after mortgaging his home in Phoenix, Arizona, or transfer the property to a court-appointed liquidator if he cannot obtain the mortgage; and divest himself of his interest in a Hawaii vacation property. It also requires

the court-appointed receiver to transfer to the FTC the estimated \$600,000 that will remain in the accounts of Central Coast Nutraceuticals and the affiliated corporate defendants after their outstanding expenses are paid. If it is later determined that the financial information the defendants provided was false, the full amount of the judgment will become due.

In addition to banning the defendants from selling any products or services with a negative option feature, the settlement also prohibits them from:

- making deceptive statements that there is no cost for a trial purchase; that all consumers who request full refunds will get them; that celebrities such as Oprah Winfrey and Rachael Ray endorse their products; that consumer testimonials reflect typical consumer experiences; about the total amount consumers will pay; or about any other material fact regarding any goods or services sold by the defendants;
- failing to make adequate disclosures about the material terms and conditions of any offer;
- charging consumers' credit cards, or debiting their bank accounts without their consent;
- making any claim that a product can diagnose, cure, mitigate, treat, or prevent any disease, including cancer, unless the claim is approved by the Food and Drug Administration;
- making any claim that a product can cause weight loss, unless the claim is supported by two well-controlled human clinical studies;
- making claims about the health benefits of any supplement, food, or drug without competent and reliable scientific evidence, and misrepresenting any tests or studies;
- making deceptive or false statements or failing to disclose material facts, to a payment processor or financial institution; and
- violating the Electronic Funds Transfer Act and Regulation E.

Under the settlement order, the defendants also are required to monitor the activities of any affiliate marketers selling products or services on their behalf, including reviewing any marketing materials used to ensure that they comply with the order.

Victimized consumers flooded law enforcement agencies and the Better Business Bureau with thousands of complaints about the company. The defendants' marketing traded on the rampant popularity of acai berry supplements, which are derived from acai palm trees that are native to Central and South America. The Better Business Bureau named fake "free" trial offers – including those for acai supplements offered by the defendants in this case – as one of the "Top 10 Scams and Rip-Offs of 2009."

For more information about free trial offers, products that claim to treat, prevent or cure diseases, and weight loss products, see: ["Free Trials" Aren't Always Free, Miracle Health Claims: Add a Dose of Skepticism, and Weight Loss Promises.](#)

In addition to Gibson and Central Coast Nutraceuticals, Inc., the settlement order resolves the FTC's charges against all other defendants in the case: Michael A. McKenzie; iLife Health and Wellness LLC; Simply Naturals LLC; Health and Beauty Solutions LLC; and Fit for Life LLC.

The Commission vote authorizing the staff to file the complaint and approving the proposed settlement order was 3-1, with Commissioner J. Thomas Rosch voting no. Judge Charles R. Norgle, Sr. of the U.S. District Court for the Northern District of Illinois, Eastern Division signed the settlement order on January 3, 2012.

NOTE: A settlement order is for settlement purposes only and does not constitute an admission by the defendant that the law has been violated. Settlement orders have the force of law when approved and signed by the District Court judge.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online

Complaint Assistant or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of consumer topics. Like the FTC on Facebook and follow us on Twitter.

(FTC File No. 1023028)

(Central Coast NR)

PRESS RELEASE REFERENCE:

FTC Sends Refund Checks Totaling nearly \$6 Million to Consumers Who Bought Dietary Supplements
Court Orders Internet Marketers of Acai Berry Weight-Loss Pills and "Colon Cleansers" to Stop Deceptive Advertising and Unfair Billing Practices

Contact Information

MEDIA CONTACT:

Betsy Lordan

Office of Public Affairs

202-326-3707

STAFF CONTACT:

David O'Toole

FTC Midwest Region, Chicago

312-960-5634



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