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Walgreens Will Pay Nearly \$6 Million to Settle FTC Deceptive Advertising Charges

Suppliers of Airborne-like Cold-and-Flu Supplements Reach Separate \$565,000 Settlement

In a continuing crackdown on companies making unproven claims about cold and flu remedies, the Federal Trade Commission has announced two more cases.

National pharmacy chain Walgreens has agreed to pay nearly \$6 million to settle FTC charges that the company deceptively advertised “Wal-Born” – a line of dietary supplements similar to the Airborne cold-and-flu treatment – using the same kind of baseless claims that the supplements could prevent colds, fight germs, and boost the immune system.

In addition to the proposed Walgreens agreement, a federal court has approved a settlement in a separate case that will require a \$565,000 payment by the two principal officers of Improvita Health Products Inc., the manufacturer of Walgreens’ “Wal-Born” and other supplements. The FTC suit against the corporate defendant, Improvita Health Products, Inc., remains in litigation.

Walgreens sold the supplements under its store name, and touted their similarity to supplements sold by Airborne Health, Inc., which settled FTC deceptive advertising charges in 2008. According to the FTC’s complaints, Walgreens advertised its Wal-Born supplements online, in newspaper circulars nationwide, and on packaging. Improvita manufactured store-brand versions of Airborne for various retailers, including Walgreens and Rite Aid, and it marketed its own brand of lozenges and tablets under the name Germ Defense.

The FTC’s agreements with Walgreens and the Improvita officers come after the agency settled similar cases last year alleging that two other pharmacy chains, CVS and Rite Aid, deceptively advertised the same kinds of supplements sold in their stores.

Under the proposed settlement with Walgreens and the approved settlement with the Improvita officers, all the defendants are or would be barred from claiming that their products prevent or treat cold or flu symptoms, or protect against cold and flu viruses by boosting the immune system, unless there is scientific evidence to back up these claims. The \$5.97 million settlement with Walgreens includes \$1.2 million that was used to pay consumers as the result of a separate class action suit.

As part of their settlement with the FTC, Improvita principal officers Thomas B. Klamet and Daniel P. Kohler will pay \$325,000 and \$240,000, respectively. Klamet and Kohler

also must take steps to ensure that their employees comply with the settlement, and they must comply with standard FTC record-keeping and reporting requirements.

The Commission vote authorizing the staff to approve the settlement agreement with Klamet and Kohler was 4-0. The settlement agreement was filed in the U.S. District Court for the Northern District of Ohio on November 18, 2009, and approved by the court on January 8, 2010.

The Commission vote authorizing the staff to approve the settlement agreement with Walgreen Co. was 4-0. The complaint was filed in the U.S. District Court for the Northern District of Illinois on March 23, 2010. The settlement agreement will be submitted to the court for approval.

NOTE: The Commission files a complaint when it has reason to believe that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the defendant has actually violated the law. A stipulated final order is for settlement purposes only and does not constitute an admission by the defendants of a law violation. A stipulated final order requires approval by the court and has the force of law when signed by the 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 1,800 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's Web site provides free information on a variety of [consumer topics](#).

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(Walgreens-Improvita NR.wpd)