

PERSONAL CARE PRODUCT COMPANIES TARGETED FOR "ALL-NATURAL" CLAIMS

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The Federal Trade Commission ("FTC") has approved four final consent orders against companies that allegedly misrepresented their personal care products as "All-Natural" or "100% Natural."

In the past several years, numerous private lawsuits have been filed by consumers, particularly in California, alleging that food products labeled and advertised as "natural" violate false advertising laws. The FTC orders demonstrate that other products may be at risk for such claims as well.

The FTC has authority for enforcing the Federal Trade Commission Act, which broadly prohibits "unfair or deceptive acts or practices." The FTC views labels and ads as deceptive if there is a material misrepresentation or omission that is likely to mislead consumers and affect their choices regarding a product.

The FTC complaints allege the following companies made deceptive all-natural claims in labeling and advertising a variety of personal care products, ranging from sunscreen to shampoo: Trans-India Products, Inc., doing business as ShiKai; Erickson Marketing Group, doing business as Rocky Mountain Sunscreen; ABS Consumer Products, LLC, doing business as EDEN BodyWorks; and Beyond Coastal. The complaints allege that the products were labeled and advertised as being "Natural," but contain synthetic ingredients such as phenoxyethanol, dimethicone, and polyethylene.

A complaint against a fifth company, California Naturel, Inc., just entered litigation. The FTC complaint alleges that the company labeled and advertised a sunscreen as "all natural" when it contains dimethicone.

The orders prohibit the companies from misrepresenting that a product is all-natural or 100% natural. In addition, they cannot misstate the extent to which any product contains natural or synthetic components, cannot make misleading claims about ingredients or composition, and cannot make deceptive representations about environmental or health benefits. For some claims, the companies will need scientific evidence.

The FTC did not impose penalties against the companies. However, violation of an FTC order can expose a company to penalties of up to \$16,000 per violation, and each sale can constitute a

separate violation.

In addition, private lawsuits alleging violation of state false advertising laws can subject companies to potential liability of thousands of dollars per violation. For example, California's false advertising law, Business and Professions Code § 17500, carries potential penalties of up to \$2,500 per violation, and the state's Consumer Legal Remedies Act, Civil Code §§ 1750, *et seq.*, provides minimum statutory penalties of \$1,000 per violation, restitution, and punitive damages.

MEET THE TEAM



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