

Complaint

IN THE MATTER OF

**NATIVE ESSENCE HERB COMPANY,
MARK J. HERSHISER,
AND
MARIANNE HERSHISER**CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. 9328; File No. 082 3115
Complaint, September 16, 2008 – Decision, May 7, 2009*

This consent order addresses the respondents' advertising and promotion of Native Essence (Rene Caisse) Formula tea and extract, Native Essence Plus tea and extract, Native Essence with Cat's Claw tea and extract, chaparral herb, Maitake mushroom extract, and Mai-T Mushroom Plus Formula extract. The complaint alleges that respondents have claimed that their products are effective in treating and curing various forms of cancer and in reducing the size of, or eliminating, cancerous tumors. The consent order requires respondents to have competent and reliable scientific evidence substantiating any claim that their products are effective in the treatment or cure of cancer; prevent or lower the risk of cancer; are effective in reducing the size of, or eliminating, cancerous tumors; or is safe or non-toxic or has no side effects.

Participants

For the *Commission*: Rich Cleland, Matthew D. Gold, Rosemary Rosso, and Erika Wodinsky.

For the *Respondents*: Richard A. Jaffe and Judith A. Rosenstein.

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The Federal Trade Commission, having reason to believe that Native Essence Herb Company, a corporation, Mark J. Hershiser, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation, and Marianne Hershiser, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation

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(“ respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Native Essence Herb Company (“Native Essence”) is or has been a New Mexico corporation, with its principal office or place of business at 4 Tune Drive, Unit B, El Prado, New Mexico 87529.

2. Respondent Mark J. Hershiser is an officer of Native Essence. Individually or in concert with others, he has formulated, directed, controlled, or participated in the policies, acts, or practices of Native Essence, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Native Essence.

3. Respondent Marianne Hershiser is an officer of Native Essence. Individually or in concert with others, she has formulated, directed, controlled, or participated in the policies, acts, or practices of Native Essence, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of Native Essence.

4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

5. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed herbal products to the public, including Native Essence (Rene Caisse) Formula (also called the “Native Essence Original Formula”), Native Essence Plus, Native Essence with Cat’s Claw, chaparral herb, Japanese Maitake mushrooms, and Mai-T Mushroom Plus. Respondents offer these products through the following Internet websites: www.herbalformulas.com, www.herbalalternative.com, www.herbmed.com, and www.herbalremedy.com. Native Essence Original Formula, Native Essence Plus, Native Essence with Cat’s Claw, chaparral herb, Japanese Maitake mushrooms, and Mai-T Mushroom Plus are “foods” and/or

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“drugs” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

6. Respondents promote their Native Essense Original Formula, Native Essense Plus, and Native Essense with Cat’s Claw products as a treatment or cure for lymphoma, colon, rectal, and prostate cancer, as well as for diabetes, ulcers and other ailments. Respondents promote chaparral herb, Japanese Maitake mushrooms, and Mai-T Mushroom Plus, which contains a mix of Japanese Maitake mushrooms, Red Reishi mushrooms, Shiitake mushrooms, *Corydiceps* fungus, Chinese Astragalus root, and Rose Hips, as products that can treat or cure cancer.

Native Essense Original Formula, Native

Essense Plus, and Native Essense with Cat’s Claw

7. Respondents have disseminated or caused to be disseminated advertisements for their Native Essense Original Formula, Native Essense Plus, and Native Essense with Cat’s Claw products, including but not necessarily limited to the attached Exhibit A. These advertisements contain the following statements:

“Native Essense™ (Rene Caisse) Formula

. . .

Uses:

Thousands of people over the years have testified that Rene Caisse’s formula has cured their cancer, diabetes, ulcers and many other ailments. [Exhibit A, at 1]

. . .

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Testimonials:

“I was battling lymphoma for 10 years and was in horrendous pain. I began taking Native Essence™ Plus and began feeling better right away. After 4 months my blood was normal and I was not feeling pain anymore . . . I still take the Native Essence™ Plus everyday and have now been in remission for over a year.”

Christiane B. [Exhibit A, at 2; ellipses in the original]

“I am glad my wife is taking these herbs (Native Essence™ tea) you are giving her. Iit [sic] seems to be working, the cancer cells in her blood stream went from 10 to 1.05. Thank you very much for taking the time to talk with her and encouraging her to get well again.” Bernard G. “My PSA count went down from 6.4 to 3.9 after 3 months and the only thing I did differently was to take the Native Essence™ with Cat’s Claw formula. I’m very happy with the progress and I’m going to continue using it.”

Roland M. [Exhibit A, at 2]

. . .

“I had colon and rectal cancer and they could do no more for me as I’d had 8 weeks of chemo and 11 days of radiation. I could take the radiation no more and they told me the chemo was not reaching the tumor. I started on Native Essence™, 2 ounces three times a day for four months then 2 ounces twice a day. After about six months a large tumor was expelled and after that about five more smaller ones.” Comments from my Radiologist: “I’ve heard wonderful things about essiac.” Comments from my nurse after reading my blood test: “This blood test is awesome for a woman with colon and rectal cancer.”

Mary Helen H. [Exhibit A, at 2]

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...

Native Essense (essiac herbs) Ingredients

...

Ingredients

Original: Burdock root, Sheep Sorrel herb, Slippery Elm bark, Turkish rhubarb root.

Plus adds: Red Clover, Watercress, Blessed Thistle, Kelp/Bladderwrack.

With Cats Claw adds Cats Claw bark to the Original.

...

Sheep Sorrel herb (*Rumex acetosella*)

...

Common Use: Throughout the centuries, the sorrels have appeared in historical archives as a folk remedy for cancer in both Europe and America. In the late 1740's, legislation was introduced in Williamsburg, Virginia, that permitted Mrs. Mary Johnson to use this plant as a treatment for cancer. . . . In 1926, the National Cancer Institute received a recipe from Canada citing an old Indian cure for cancer using a paste made with bread and the juice of sheep sorrel, applied externally. Thus, it would appear from early literature that the sorrels were used to treat cancer. Sorrel contains a high amount of nutrients including chlorophyll . . . The chlorophyll molecules that carry oxygen through the bloodstream may do the following: Inhibit chromosome damage to effectively block cancer, reduce the damage of radiation burns . . . [Exhibit A, at 4-5]

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Kelp (*Laminaria species*) or **Bladderwrack** (*Fucus vesiculosus*)

...

Common Uses: . . .The extensive research done on this remarkable sea-weed has shown it to have anti-tumor properties (Japanese researchers have claimed kelp has been 'conclusively proven to prevent breast cancer'), as well as antibiotic, antioxidant and antibacterial properties. [Exhibit A, at 7]

...

Peruvian Cat's Claw (Uña de Gato) bark (*Uncaria tomentosa*)

...

Common Uses: This amazing vine from the Peruvian rain forest is offered in Peruvian pharmacies, the label states that the curative properties are almost unlimited. This is because the herb is considered a powerful cellular reconstitutor. Studies beginning in 1970 and continuing through today suggest it has applications in the treatment of

cancer. . . [Exhibit A, at 7]

..."

[Exhibit A, portions of respondents' website www.herbmed.com/caisseinfo.html, as accessed on February 29, 2008]

8. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that:

a. Native Essense Original Formula, Native Essense Plus, and Native Essense with Cat's Claw are effective in treating and

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curing cancer, including but not limited to lymphoma, colon cancer, rectal cancer, and prostate cancer;

b. Native Essense Original Formula, Native Essense Plus, and Native Essense with Cat's Claw are effective in reducing the size of, or eliminating, cancerous tumors; and

c. Native Essense Plus is effective in preventing breast cancer.

9. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made.

10. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made. Therefore, the representation set forth in Paragraph 9 was, and is, false and misleading.

11. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that:

a. Scientific research proves that Native Essense Plus prevents breast cancer; and

b. Scientific studies prove that Native Essense with Cat's Claw is effective in the treatment of cancer.

12. In truth and in fact:

a. Scientific research does not prove that Native Essense Plus prevents breast cancer; and

b. Scientific studies do not prove that Native Essense with Cat's Claw is effective in the treatment of cancer.

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Therefore, the representations set forth in Paragraph 11 were, and are, false or misleading.

Chaparral Herb

13. Respondents have disseminated or caused to be disseminated advertisements for their Chaparral herb extract, including but not necessarily limited to the attached Exhibit B. These advertisements contains the following statements:

“Chaparral herb (Larrea v. sp.)

. . .

Common Uses: For centuries, Native Americans have been using chaparral leaves and stems to treat a wide variety of ailments, including cancer . . . In folk medicine, chaparral has been used for leukemia and many different types of cancers. Many people with cancer have claimed tumor shrinkage or complete remission using only chaparral. The plant contains immune stimulating polysaccharides and a key ingredient nordihydroguaiaretic acid (NGDA) [sic.], which has been shown to have powerful antitumor properties. According to vol. 19 of Biochemical Pharmacology NGDA inhibits electron transport in the mitochondria, or 'energy producing factories' within cancer cells, thereby depriving tumors of the electrical energy they require to exist. . . .”

[Exhibit B, portions of respondents' website www.herbalformulas.com/chaparral.html, as accessed on February 29, 2008]

14. Through the means described in Paragraphs 13, respondents have represented, expressly or by implication, that:

- a. Chaparral herb is effective in treating and curing cancer;

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b. Chaparral herb is effective in causing people with cancer to go into complete remission, without the need for any other form of treatment; and

c. Chaparral herb is effective in shrinking or eliminating cancerous tumors.

15. Through the means described in Paragraph 13, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 14, at the time the representations were made.

16. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 14, at the time the representations were made. Therefore, the representation set forth in Paragraph 15 was, and is, false and misleading.

Maitake Mushroom Extract and Mai-T Mushroom Plus Extract

17. Respondents have disseminated or have caused to be disseminated advertisements for their Maitake mushroom extract and Mai-T Mushroom Plus extract products, including but not necessarily limited to the attached Exhibit C. These advertisements contain the following statements:

“Mai-T Mushroom Plus™ Ingredients

...

Immune, Adaptogenic and Whole Body Tonic. The benefits shown by clinical trials performed on these mushrooms in China and Japan are far too numerous to list here. Among these include: the ability to inhibit many types of tumors, build bone marrow, aid in cancer prevention, stimulate the immune system on all levels, support people undergoing chemotherapy, stimulate circulation and help

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with coronary/heart disease. The Japanese government has officially listed Reishi as an adjunct herb for cancer . . . [Exhibit C, at 1]

. . .

Ingredients: Maitake mushroom, Reishi mushroom, Shiitake mushroom, Cordyceps fungus, Astragalus root and concentrated Rose Hips extract.

. . .

Japanese Maitake mushroom (*Grifola frondosa*)

. . .

Common Uses: A Maitake extract is being studied in medical clinics in the U.S. for patients with breast and colorectal cancers. In China, an extract of this mushroom demonstrated an anti-cancer effect in 63 patients with lung, stomach, hepatocellular cancers and leukemia. Dr. Joan Priestly MD, reports that her patients with Kaposi's sarcoma and other symptoms of AIDS show improvement when administered the extract. When used consistently (3-5 times weekly), Maitake is said to aid in cancer prevention, immune stimulation in people with cancer, support people undergoing chemotherapy and benefit people with the AIDS virus. . . . [Exhibit C, at 1]

. . .

Red Reishi mushroom (*Ganoderma lucidum*)

. . .

Common Use: Red Reishi is in the most highly rated category of herbs ("Superior"), in terms of multiple benefits and lack of side effects, in Traditional Chinese Medicine.

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Here is a small list of some of the things it is claimed to benefit. Cancer, side effects of cancer treatments including radiation, chemo-therapy and surgery . . . [Exhibit C, at 1]

...

Shiitake mushroom (*Lentinus edodes*)

...

Common Use: Shiitake is used for any and all diseases involving depressed immune function, including cancer . . . [Exhibit C, at 2]

...

Chinese Astragalus root (*Astragalus membranaceus*)
[ingredient in *Mai-T Mushroom Plus*]

...

Common use:. . .Astragalus root has also been indicated as an aid in the side effects of chemotherapy as well as having the ability to inhibit tumor growth. If taken cumulatively, especially with Chinese Ligustrum (Privet) fruit, it shows marked anti-tumor properties. [Exhibit C, at 3]

...”

[Exhibit C, portions of respondents’ website www.herbalformulas.com/mitxpinfo.html, as accessed on February 29, 2008]

18. Through the means described in Paragraph 17, respondents have represented, expressly or by implication, that:

- a. Mai-T Mushroom Plus is effective in preventing, treating and curing cancer, including but not limited to lung cancer,

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stomach cancer, hepatocellular cancer, leukemia, and Kaposi's sarcoma; and

b. Mai-T Mushroom Plus is effective in inhibiting the growth of cancerous tumors.

19. Through the means described in Paragraph 17, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 18, at the time the representations were made.

20. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 18, at the time the representations were made. Therefore, the representation set forth in Paragraph 19 was, and is, false and misleading.

21. Through the means described in Paragraph 17, respondents have represented, expressly or by implication, that clinical studies prove that Maitake mushrooms and Mai-T Mushroom Plus prevent and treat lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Kaposi's sarcoma, and inhibit tumor growth.

22. In truth and in fact, clinical studies do not prove that Maitake mushrooms and Mai-T Mushroom Plus prevent or treat lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Kaposi's sarcoma, and inhibit tumor growth. Therefore, the representation set forth in Paragraph 21 was, and is, false and misleading.

23. The acts and practices alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

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NOTICE

Proceedings on the charges asserted against the respondents named in this complaint will be held before an Administrative Law Judge (ALJ) of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. Part 3. A copy of Part 3 of the Rules is enclosed with this complaint.

You are notified that the opportunity is afforded you to file with the Commission an answer to this complaint on or before the twentieth (20th) day after service of it upon you. An answer in which the allegations of the complaint are contested shall contain a concise statement of the facts constituting each ground of defense; and specific admission, denial, or explanation of each fact alleged in the complaint or, if you are without knowledge thereof, a statement to that effect. Allegations of the complaint not thus answered shall be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that you admit all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the ALJ shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such answer you may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice for Adjudicative Proceedings.

Failure to answer within the time above provided shall be deemed to constitute a waiver of your right to appear and contest the allegations of the complaint and shall authorize the ALJ, without further notice to you, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

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The ALJ will schedule an initial prehearing scheduling conference to be held not later than 7 days after the last answer is filed by any party named as a respondent in the complaint. Unless otherwise directed by the ALJ, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within 5 days of receiving a respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

Notice is hereby given to each of the respondents named in this complaint that a hearing before the ALJ on the charges set forth in this complaint will begin on December 16, 2008, at 10:00 a.m., or such other date and time as determined by the ALJ, in Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. At the hearing, you will have the right under the Federal Trade Commission Act to appear and show cause why an order should not be entered requiring you to cease and desist from the violations of law charged in this complaint.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

Moreover, the Commission has reason to believe that, if the facts are found as alleged in the complaint, it may be necessary and appropriate for the Commission to seek relief to redress injury to consumers, or other persons, partnerships or corporations, in the form of restitution for past, present, and future consumers and such other types of relief as are set forth in Section 19(b) of the Federal Trade Commission Act. The Commission will determine whether to apply to a court for such relief on the basis of the adjudicative

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proceedings in this matter and such other factors as are relevant to consider the necessity and appropriateness of such action.

ORDER**DEFINITIONS**

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “respondents” means Native Essence Herb Company, a corporation, its successors and assigns and its officers; Mark J. Hershisier, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation; and Marianne Hershisier, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation; and each of the above’s agents, representatives and employees.
2. “Commerce” means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
3. “Competent and reliable scientific evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
4. “Food” and “drug” mean “food” and “drug” as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
5. “Covered product or service” means any food, dietary supplement, or drug, including, but not limited to, Native Essence (Rene Caisse) Formula tea or extract, Native Essence Plus tea or extract, Native Essence with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T

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Mushroom Plus Formula extract, or any other health-related product, service, or program.

6. “Endorsement” means as defined in 16 C.F.R. § 255.0(b).

I.

IT IS ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale, or distribution of Native Essence (Rene Caisse) Formula tea or extract, Native Essence Plus tea or extract, Native Essence with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract, or any substantially similar product or any other covered product or service, in or affecting commerce, shall not represent, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, that:

- A. Such product is effective in the treatment or cure of cancer;
- B. Such product prevents or lowers the risk of cancer;
- C. Such product is effective in reducing the size of, or eliminating, cancerous tumors; or
- D. Such product is safe or non-toxic or has no side effects;

unless the representation is true, non-misleading, and, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, trade

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name, or other device, in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, about the efficacy, performance, or health-related benefits of any covered product or service, unless the representation is true, non-misleading, and, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

IV.

IT IS FURTHER ORDERED that:

- A. Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for such drug under any tentative or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and
- B. Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

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V.**IT IS FURTHER ORDERED** that:

- A. Respondents shall, within seven (7) days after the date of service of this order, deliver to the Commission a list, in the form of a sworn affidavit, of all consumers who purchased Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cat's Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula, on or after January 1, 2005 through the date of service of this order. Such list shall include each consumer's name and address, the product(s) purchased, and, if available, the consumer's telephone number and email address;
- B. Within forty-five (45) days after the date of service of this order, respondents shall send by first class mail, postage prepaid, an exact copy of the notice attached as Attachment A to all persons identified in Part V.A. The face of the envelope containing the notice shall be an exact copy of Attachment B. The mailing shall not include any other documents; and
- C. Except as provided in this order, respondents, and their officers, agents, servants, employees, attorneys, and representatives shall not sell, rent, lease, transfer, or otherwise disclose the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any respondent, at any time prior to issuance of this order, in connection with the purchase of Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cats Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus extract. *Provided, however*, that respondents may disclose

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such identifying information to the FTC pursuant to Part V.A, above, or any law enforcement agency, or as required by any law, regulation, or court order.

VI.

IT IS FURTHER ORDERED that respondents shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. A specimen copy of all advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call 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.

VII.

IT IS FURTHER ORDERED that respondent Native Essence Herb Company, and its successors and assigns, and respondents Mark J. Hershiser and Marianne Hershiser shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondents shall maintain and upon

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request make available to the Federal Trade Commission for inspection and copying a copy of each signed statement acknowledging receipt of the order.

VIII.

IT IS FURTHER ORDERED that respondent Native Essence Herb Company, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

IX.

IT IS FURTHER ORDERED that respondents Mark J. Hershisier and Marianne Hershisier, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of their current business or employment, or of their affiliation with any new business or employment. The notice shall include respondents' new business address and telephone number and a description of the nature of the business or employment and their duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

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X.

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

XI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

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THEREFORE, the Federal Trade Commission this sixteenth day of September, 2008, has issued this complaint against respondents.

By the Commission.

FEDERAL TRADE COMMISSION DECISIONS
VOLUME 147

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Attachment A

ATTACHMENT A
LETTER TO BE SENT BY FIRST CLASS MAIL
[To be printed on letterhead of Native Essence Herb Company]

[Name and address of recipient] [Date]

Dear [Recipient]:

Our records show that you bought Native Essence (Rene Caisse or essiac herbs) Formula, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, and/or Mai-T Mushroom Plus Formula from one of our websites, www.herbalformulas.com, www.herbmed.com, www.herbalalternative.com, and www.herbremedy.com. We are writing to tell you that the Federal Trade Commission ("FTC") has found that our advertising claims for these products were false or unsubstantiated, and has issued an Order prohibiting us from making those claims in the future. The Order entered against us also requires that we send you the following information about the scientific evidence on these products.

Very little scientific research has been done concerning Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus as a treatment or cure for cancer in humans. The scientific studies that have been done do not demonstrate that Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus, or the ingredients in these products, are effective when used as treatments for cancer.

It is very important that you talk to your doctor or health care provider before using *any* alternative or herbal product, including Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus. Speaking with your doctor is important to make sure that all aspects of your medical treatment work together. Things that seem safe, such as certain foods, herbs, or pills, may interfere or affect your cancer or other medical treatment, or other medicines you might be taking. Some herbs or other complementary or alternative treatments may keep your medicines from doing what they are supposed to do, or could be harmful when taken with other medicines or in high doses. It also is very important that you talk to your doctor or health care provider before you decide to take any alternative or herbal product, including Native Essence, Native Essence Plus, Native Essence with Cat's Claw, Chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus, instead of taking conventional cancer treatments that have been scientifically proven to be safe and effective in humans.

If you would like further information about complementary and alternative treatments for cancer, the following Internet web sites may be helpful:

1. The National Cancer Institute: www.cancer.gov/cancertopics/pdq; or
2. The National Center for Complementary and Alternative Medicines: www.nccam.nih.gov

Attachment A

Complaint

You also can contact the National Cancer Institute's Cancer Information Service at 1-800-4-CANCER or 1-800-422-6237.

Sincerely,

Attachment A

FEDERAL TRADE COMMISSION DECISIONS
VOLUME 147

Complaint

Attachment B

ATTACHMENT B

Native Essence Herb Company
P.O. Box 189
Carson, New Mexico 87517

[name and address of purchaser]

GOVERNMENT ORDERED NOTICE

Attachment B

Complaint

Exhibit A

Rene Caisse Herbs

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Estimated delivery 2-3 days

Native Essence™ (Rene Caisse) Formula

Compare to Essiac™ or Flor-Essence™ and save!

This is the combination of herbs originally prepared by the Ojibwa Indians and later used so successfully by the late Canadian nurse Rene Caisse and called (Essiac is Caisse backwards). This formula is believed to normalize body systems by purifying the blood and thoroughly cleansing the body of harmful toxins. We call this formula Native Essence™ and we prepare it using only the finest organic quality herbs available.



Available in the traditional dry tea and a super concentrated, already prepared liquid extract that requires no preparation and no refrigeration.

Click [HERE](#) for more info on this amazing formula

[Order Here](#)

[Product Info](#)

[Ingredients](#)



The origins of Essiac

About Native Essence™

Native Essence is available in the traditional dry herbal tea format as well as a concentrated liquid extract. The Native Essence™ formula is carefully prepared using only the finest quality herbs. The herbs used in this formula are always organically grown or ecologically wildcrafted and will never be irradiated or fumigated.

The original Essiac™ formula consisted of 4 herbs: burdock root (picked in its first year of life), sheep sorrel (the whole plant), slippery elm bark (the innermost bark) and Turkish rhubarb root. Native Essence is always prepared using these herbs as listed above.

Throughout its evolution, 4 additional herbs have sometimes been added to the original formula. The addition of these herbs is based on the research of Dr. Chailes Brusch M.D., the personal physician to president John F. Kennedy. Dr. Brusch worked closely with Rene Caisse for many years, and after 30 years of testing and research, believed the formula to be perfected. These herbs (watercress, red clover, blessed thistle and kelp) are added to enhance the original formula. It is believed by some that these additional herbs help bring out the full potential of the original herbs, which still make up the heart and soul of the formula.

So that you may make your own choice regarding these additions, Native Essence is available in the original 4 herb formula (known as Native Essence original) and also in the "enhanced" 8 herb formula (known as Native Essence Plus). We make no recommendations with regard to these additions, and since both formulas contain the original "essential herbs" as traditionally prepared and proportioned, we believe either will be highly beneficial.

Uses:

Thousands of people over the years have testified that Rene Caisse's formula has cured their cancer, diabetes, ulcers and many other ailments. The formula is believed to normalize body systems by purifying and oxygenating the blood and thoroughly cleansing the body of harmful toxins. It helps break down catabolic tissue and promote the replacement of wasted tissue with healthy new tissue, also leading to a better absorption and assimilation of nutrients.

Testimonials:

<http://www.herbalformulas.com/renecaissetea.html>

The Ojibway

The Ojibway have been described as having a knowledge of herbal healing and spiritual powers as extensive as any other native American tribe. The medicine men gained their knowledge of plants in several ways. It came in the form of spiritual visions, intuition and thousands of years of observation. Observing the behavior of ill and injured animals, they learned which plants the animals consumed to heal themselves. From these sources as well as guidance from the Great Spirit, Kitchi Manitou, they amassed a wealth of knowledge and passed it down from generation to generation.

The Ojibway believe that all plants, as creations of the Great Creator, express their own unique identity. They believe that each plant possesses an incorporeal being, a spiritual substance that gives it physical form, growth potential and healing powers. They also believe that plants have another remarkable power, the power to combine and become a single "united spirit," much more powerful than any of the plants individually. They feel this "united spirit" gives the formulas supernatural healing powers. Not coincidentally, many modern herbalists believe the action of this formula must be the "synergy" of these combined herbs, some

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"I was battling lymphoma for 10 years and was in horrendous pain. I began taking Native Essence™ Plus and began feeling better right away. After 4 months my blood was normal and I was not feeling pain anymore. I still take the Native Essence™ Plus everyday and have now been in remission for over a year."
Christiane B.

"I am glad my wife is taking these herbs (Native Essence™ tea) you are giving her. It seems to be working, the cancer cells in her blood stream went from 10 to 1.05. Thank you very much for taking the time to talk with her and encouraging her to get well again."
Bernard G. "My PSA count went down from 6.4 to 3.9 after 3 months and the only thing I did differently was to take the Native Essence™ with Carl's Glue formula. I'm very happy with the progress and I'm going to continue using it."
Roland M.

"Thank you for the Native Essence™ you sent me. I appreciate your thoughtfulness, and also the professionalism and courtesy you extend each time I call."
Jack L.

"Thank you very much for being so kind and thank you for having such a wonderful product. It has helped many, many people."
Robecca R.

"I had colon and rectal cancer and they could do no more for me so I had 8 weeks of chemo and 11 days of radiation. I could take the radiation no more and they told me the chemo was not reaching the tumor. I started on Native Essence™, 2 ounces three times a day for four months then 2 ounces twice a day. After about six months a large tumor was expelled and after that about five more smaller ones. Comments from my Radiologist: "I've heard wonderful things about essence." Comments from my nurse after reading my blood test: "This blood test is awesome for a woman with colon and rectal cancer."
Mary Helen H.

[Click here to learn about the Hoxsey formula](#)

"The Hoxsey formula worked real well for my mom, she had bronchitis for 3 months and it went away in approximately 1 1/2 weeks with the Hoxsey."
Cecilia H.

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"magical" quality emerging when blended together.

Rene Caisse
In 1922, Canadian Nurse Rene Caisse received the Glibway formula from a patient. Giving it the name Essiac (Caisse spelled backwards) she used the herbal remedy many times over the next 50 years and her work with it has been described as "one of the most remarkable stories in all of medicine."

Her life and work have been well documented in several books, as well as countless magazine and newspaper articles, recounting numerous claims and testimonials from people said to have benefitted from this remarkable, safe and simple formula.

Exclusivity:

Some companies claim to have the only recipe for the formula, but it is readily available for everyone to benefit from, as all good things from earth should be. Dr. Gary Glum published a biography of nurse Caisse entitled *Calling of an Angel* (1988). He was given the formula by Mary MacPherson, a close friend of nurse Caisse, and he sends the formula with his book. Likewise, the formula was published in the book *The Essence of Essine* by Canadian Sheila Snow. Our formula uses the same herbs and the same ratios as nurse Rene Caisse recommended. Native Essence Rene Caisse formulas are prepared in a traditional manner by our trusted herbalist, whom started making the formula for others after curing his own stomach ulcers with it in 1992.

▪ [Order Native Essence](#)

▪ [Product Information](#)

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<http://www.herbalformulas.com/renecaissetea.html>

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Rene Caisse Herbs

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or effectiveness of the preparations mentioned on this website.

Furthermore, this information is to be used for educational purposes only and has been based solely on the traditional and historic use of a given herb, or on clinical trials that are generally not recognized by any US government agency or medical organization. This information has not been evaluated by the US Food and Drug Administration, nor has it gone through the rigorous double-blind studies required before a particular product can be deemed truly beneficial or potentially dangerous and prescribed in the treatment of any condition or disease.

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Native Essence (essiac herbs) Ingredients

This is the combination of herbs originally prepared by the Ojibwa Indians and later used so successfully by the late Canadian nurse Rene Caisse and called (Essiac is Caisse backwards). This formula is believed to normalize body systems by purifying the blood and thoroughly cleansing the body of harmful toxins. We call this formula Native Essence™, and we prepare it using only the finest organic quality herbs available.

Ingredients:

Original: Burdock root, Sheep Sorrel herb, Slippery Elm bark, Turkish rhubarb root.
Plus adds: Red Clover, Watercress, Blessed Thistle, Kelp/Bladderwrack.
With Cats Claw adds Cats Claw bark to the Original.

[Click here to order](#)

Burdock root (*Arcium lappa*)

Actions: Alterative, depurative, diuretic, bitter, tonic.

Common Use: This root is well known for its blood cleansing properties and is used in innumerable herbal medicines and blood remedies. Skin eruptions, due to impurities in the blood, are quickly remedied by burdock. It is extensively used in lymphatic, liver, rheumatic and skin diseases. Experiments on burdock have shown it to inhibit tumors, lower blood sugar, and destroy fungal and bacteria cultures. For example, two Hungarian scientists reported "considerable anti-tumor activity" in a purified fraction of burdock. Japanese researchers at Nagoya University found in burdock (aka as Gobo root in Japan) a new type of desmutagen, a substance that is uniquely capable of reducing cell mutation in either the absence or the presence of metabolic activation. This new property is so important, the Japanese scientists named it the B-factor for "burdock factor." In general, it is claimed burdock will help restore the body to a state of integration and health. Burdock is also included in the Rene Caisse (Essiac) formula.

Other formulas containing this herb:

[Dandelion/Milk Thistle Plus](#)
[Devil's Claw/Cat's Claw Plus](#)
[Hoxsey Formula](#)
[Slim Tonic Plus](#)

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Sheep Sorrel herb (*Rumex acetosella*)

Actions: Alterative, diuretic, anthelmintic, antineoplastic, antilithic, antiseptic, astringent, carminative, parasiticide, stomachic, tonic.

Common Use: Throughout the centuries, the sorrels have appeared in historical archives as a folk remedy for cancer in both Europe and America. In the late 1740's, legislation was introduced in Williamsburg, Virginia, that permitted Mrs. Mary Johnson to use this plant as a

<http://www.herbmed.com/caisseinfo.html>

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Complaint

treatment for cancer. In the 1888 Canadian Pharmacy Journal, the leaves of both the sheep sorrel and the taller common sorrel (*Rumex acetosa*) were included in the list of Canadian medicinal plants. In 1926, the National Cancer Institute received a recipe from Canada citing an old Indian cure for cancer using a paste made with bread and the juice of sheep sorrel, applied externally. Thus, it would appear from early literature that the sorrels were used to treat cancer. Sorrel contains a high amount of nutrients including chlorophyll. Chlorophyll closely resembles hemoglobin, the red pigment in human blood, but has at its center a magnesium atom, whereas hemoglobin has an iron atom, and both carry oxygen to every cell of the organism. The chlorophyll molecules that carry oxygen through the bloodstream may do the following: inhibit chromosome damage to effectively block cancer, reduce the damage of radiation burns, kill germs and prevent the growth of harmful bacteria, strengthen the cell walls which may improve the vascular system, heart function, intestines, lungs and uterus, aid in the removal of foreign deposits from the walls of blood vessels, remove inflammation of the pancreas, purify the liver and increase the body's ability to utilize oxygen by raising the oxygen level in the tissue cells. Sheep sorrel is also high in oxalic acid. Dr. N.W. Walker tells us that the human body produces a small amount of oxalic acid every 24 hours and it is excreted through the kidneys. Dr. Edward E. Shook believes that oxalic acid is a powerful oxidizing acid that rouses the human system into activity. It readily combines with calcium to aid in its digestive assimilation and stimulates the peristaltic action of the intestines, thus helping sluggish, prolapsed intestines to regain their normal functions. Oxalic acid also seems to promote faster blood coagulation time, which makes it valuable for hemorrhages. Sheep sorrel has been known to prevent the spread of contagious diseases such as the plague and has overcome fevers caused by cholera and malaria. Its most important healing elements may be chlorophyll and oxalic acid, there is however, much research still to be done to discover the hidden mysteries that make this ubiquitous little plant so vital. This herb is also included in Rene Caisse's Essiac formula.

Other formulas containing this herb:

[Black Walnut/Wormwood Plus](#)

[Back to the top](#)

Slippery Elm bark (*Ulmus fulva* v. *sp.*)

Actions: Demulcent, emollient, mucilage, nutrient, astringent.

Common Use: Slippery elm is very useful in treating digestive conditions with inflamed mucous membrane linings such as gastritis, gastric or duodenal ulcers, enteritis and colitis, where it has a soothing demulcent action. It is often used as a food in convalescence as it is gentle and easily assimilated. As a nutritive tonic it feeds, soothes and strengthens the organs, tissues and mucous membranes, especially the lungs and stomach. By stimulating the growth of new cells, it quickly heals the damaged tissue of burns, cuts, hemorrhaging ulcers and wounds, including those caused by surgery. Slippery elm bark also overcomes debility and emaciation by revitalizing the entire body. The carbohydrates in slippery elm bark, including the starches and sugars, nourish and restore the plasma of the blood and lymph as well as the nervous, respiratory and digestive systems. The tannins provide an astringent quality to contract cell walls and condense tissue, thereby strengthening the muscles and tissues. The powdered bark counteracts excess acids in the stomach and intestines with its powerful alkalinizing effect and as a natural antacid, it helps to improve the intestinal flora. Slippery elm bark also produces an antibiotic and antimicrobial effect. This herb is also included in Rene Caisse's Essiac formula. Available in formula only.

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Turkish Rhubarb root (*Rheum palmatum*)

<http://www.herbmed.com/caisseinfo.html>

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Actions: Bitter stomachic, mild purgative, astringent, laxative, cathartic.

Common Use: Rhubarb root is a valuable remedy that incites the activity of the stomach, liver and bowels by increasing the flow of the digestive juices. In small doses it makes an excellent strengthening tonic for the stomach, in large doses it acts as a laxative. Rhubarb root's purgative action is useful in constipation, but also has an astringent effect following this. It therefore has a truly cleansing action on the gut, removing debris and then astringing with antiseptic properties as well.

Other formulas containing this herb:

[Dandelion/Milk Thistle Plus](#)

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Red Clover blossom (*Trifolium pratense*)

Actions: Antineoplastic, alterative, depurative, expectorant, antispasmodic, antiseptic.

Common Use: A very useful remedy for skin problems, especially safe for children, it is also effective against chronic skin problems such as psoriasis. The expectorant and antispasmodic action of red clover make it helpful in the treatment of coughs and bronchitis, but especially in whooping cough. As an alterative with exceptional blood cleansing properties, red clover is indicated in a wide range of problems when approached in a holistic sense.

Other formulas containing this herb:

[Hoxsey Formula](#)

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Watercress herb (*Nasturtium officinale*)

Actions: Depurative, tonic, stimulant.

Common Use: The American Indian used this herb for liver and kidney trouble and to dissolve kidney stones. It is rich in iron and other valuable mineral elements and its blood purifying and system cleansing properties cause it to be used extensively as a blood purifier. J.E. Meyers, Botanical Gardens of Hammond, Indiana informs us that watercress is one of the best sources of vitamin E. This is the fertility vitamin, helping the body use oxygen, which increases physical endurance and stamina and improves heart response. Brazilian research found watercress extract to possess anti-tumor properties while other research found watercress leaf juice to be active against cultures of tubercle bacillus. Avoid prolonged use in large amounts.

Other formulas containing this herb:

[Echinacea/Golden Seal Plus](#)

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Blessed Thistle herb (*Cnicus benedictus*)

Complaint

Actions: Bitter tonic, astringent, diaphoretic, depurative, antibacterial, febrifuge.

Common Use: Primarily used for helping with female problems such as painful menstruation and associated headache. This herb also has bitter properties and has been used (but should not be overused) as a digestive tonic. Works well with burdock root to cleanse the blood. Not recommended if nursing or pregnant.

Other formulas containing this herb:

[Dong Quai/Fo-Ti Plus](#)

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Kelp (*Laminaria species*) or **Bladderwrack** (*Fucus vesiculosus*)

Actions: Alterative, antirheumatic, antibacterial, antibiotic, cardiac tonic, antioxidant.

Common Uses: One of the richest sources of micro-nutrition, minerals, and trace minerals, kelp is especially high in iodine and potassium. It has proved most useful in the treatment of underactive thyroid function and for alkalizing blood chemistry. The extensive research done on this remarkable sea-weed has shown it to have anti-tumor properties (Japanese researchers have claimed kelp has been "conclusively proven to prevent breast cancer"), as well as antibiotic, antioxidant and antibacterial properties. Kelp also has the ability to protect against environmental toxins, increase circulation and help lower cholesterol, among other benefits.

Other formulas containing this herb:

[Echinacea/Golden Seal Plus](#)

[Hawthorn/Motherwort Plus](#)

[Hoxsey Formula](#)

[Red Root/Cleavers Plus](#)

[Slim-Tonic Plus](#)

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Peruvian Cat's Claw (*Uña de Gato*) bark (*Uncaria tomentosa*)

Actions: Deep immune activator, tonic, anti-inflammatory, antirheumatic, antimicrobial, antioxidant, antiviral, hypotensive, cardiac tonic.

Common Uses: This amazing vine from the Peruvian rain forest is offered in Peruvian pharmacies, the label states that the curative properties are almost unlimited. This is because the herb is considered a powerful cellular reconstitutor. Studies beginning in 1970 and continuing through today suggest it has applications in the treatment of cancer, arthritis, gastritis, ulcers, rheumatism, acne, organic depression, bursitis, genital herpes and herpes zoster, allergies, systematic candidiasis, diabetes, lupus, chronic fatigue syndrome, PMS, irregularities of the female cycle, environmental toxic poisoning, numerous bowel and intestinal disorders and those infected with the HIV virus. Studies done at the Shanghai College of Traditional Chinese Medicine indicate that rynchophylline, an alkaloid contained in cat's claw bark, has the ability to inhibit platelet aggregation and Thrombosis, which suggests that the compound in this plant may be useful in preventing strokes and reducing the risk of heart attack by lowering blood pressure, increasing circulation, and inhibiting both the formation of plaque on the arterial walls and the formation of blood clots in the brain, heart and arteries. Do not use with anti-ulcer medications. Not recommended if pregnant or nursing.

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Rene Caisse Formula

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Click [HERE](#) to learn more about Cat's Claw bark

Other formulas containing this herb:

[Cat's Claw/Astragalus/Reishi](#)
[Cat's Claw/Pau d'Arco Plus](#)
[Devil's Claw/Cat's Claw Plus](#)
[Immun-Essence Plus](#)
[Venus Flytrap/Cat's Claw](#)

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▪ Ingredients

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Exhibit B

Chaparral

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Chaparral herb (Larrea v. sp.)

Actions: Antineoplastic, antirheumatic, analgesic, antioxidant, diuretic, immune stimulant.

Common Uses: For centuries, Native Americans have been using chaparral leaves and stems to treat a wide variety of ailments, including cancer, venereal disease, arthritis, rheumatism, tuberculosis, colds, stomach disorders and skin infections to name a few. In folk medicine, chaparral has been used for leukemia and many different types of cancers. Many people with cancer have claimed tumor shrinkage or complete remission using only chaparral. The plant contains immune stimulating polysaccharides and a key ingredient nordihydroguaiaric acid (NGDA), which has been shown to have powerful antitumor properties. According to vol. 19 of Biochemical Pharmacology NGDA inhibits electron transport in the mitochondria, or "energy producing factories" within cancer cells, thereby depriving tumors of the electrical energy they require to exist. Chaparral also has been shown to have good antirheumatic properties giving it a role in the treatment of rheumatoid arthritis. This remarkable plant has to many benefits to mention here. 10 to 30 drops 2-3 times daily. Not recommended if nursing or pregnant.

Formulas containing this herb:

[Devil's Claw/Cat's Claw Plus](#)
[Hoxsey Formula](#)

All liquid extracts contain pure USP pharmaceutical grade grain alcohol.

8 oz. bottles have no droppers.

Availability: Usually ships the same business day.

2oz. Liquid Chaparral herb CHXS2 \$16.00

Availability: Usually ships the same business day.

4oz. Liquid Chaparral herb CHXS4 \$29.00

Availability: Usually ships the same business day.

8oz. Liquid Chaparral herb CHXS8 \$54.00

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Important notice:

<http://www.herbalformulas.com/chaparral.html>

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Mai-T Mushroom Plus™ Ingredients

Immune, Adaptogenic and Whole Body Tonic. The benefits shown by clinical trials performed on these mushrooms in China and Japan are far too numerous to list here. Among these include: the ability to inhibit many types of tumors, build bone marrow, aid in cancer prevention, stimulate the immune system on all levels, support people undergoing chemotherapy, stimulate circulation and help with coronary/heart disease. The Japanese government has officially listed Reishi as an adjunct herb for cancer and clinical reports seem to indicate its usefulness for people that are HIV positive, as well as for those who have Epstein-Barr Virus and other immune related disfunctions. This formula also makes an excellent adaptogenic and whole body detoxifying and revitalizing tonic.

Ingredients: Maitake mushroom, Reishi mushroom, Shiitake mushroom, Cordyceps fungus, Astragalus root and concentrated Rose Hips extract.

[Click here to order](#)

Japanese Maitake mushroom (*Grifola frondosa*)

Actions: T-cell stimulant, anti-neoplastic, immune stimulant.

Common Uses: A Maitake extract is being studied in medical clinics in the U.S. for patients with breast and colorectal cancers. In China, an extract of this mushroom demonstrated an anti-cancer effect in 63 patients with lung, stomach, hepatocellular cancers and leukemia. Dr. Joan Priestly MD, reports that her patients with Kaposi's sarcoma and other symptoms of AIDS show improvement when administered the extract. When used consistently (3-5 times weekly), Maitake is said to aid in cancer prevention, immune stimulation in people with cancer, support people undergoing chemotherapy and benefit people with the AIDS virus. It also potentially benefits diabetics and people with hypertension.

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Red Reishi mushroom (*Ganoderma lucidum*)

Actions: Adaptogen, deep immune activator, analgesic, anti-inflammatory, hypotensive, antibacterial, antiviral, cardiac tonic, expectorant, antineoplastic.

Common Use: Reishi is in the most highly rated category of herbs ("Superior"), in terms of multiple benefits and lack of side effects, in Traditional Chinese Medicine. Here is a small list of some of the things it is claimed to benefit. Cancer, side effects of cancer treatments including radiation, chemo-therapy and surgery, high altitude stress, high cholesterol and hyperlipidemia, high blood pressure, chronic (post-viral) fatigue syndrome and AIDS, weakness of the lung, wasting syndromes, difficulty concentrating, poor digestion, insomnia and poorly regulated immune response. The polysaccharides and ergosterols probably work together to stimulate natural immune functions that tend to be suppressed by cancers and immune disorders. Ganoderic acids are responsible for the anti-allergy effects and improved oxygen utilization. Reishi greatly reduced the symptoms (headaches, nausea, vomiting, insomnia, heart palpitations and extreme fatigue) of oxygen deprivation among Chinese workers who traveled to the high plateau of Tibet, climbing 15,000 feet in 3 days in the process. Reishi is also effective in reducing the symptoms of cardiovascular blockage and

<http://www.herbalformulas.com/mitxpinfo.html>

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Mai-1 Mushroom Plus™

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disease, including angina, palpitation, fullness in the chest, dizziness and headache, shortness of breath, insomnia and weariness, and loss of memory in 65% or more of the patients in various studies. Reishi is a true adaptogen, enhancing health and normal functions of the body. For example, while it increases some components of immune response for cancer patients, it also inhibits pathological immune functions in auto-immune diseases such as myasthenia gravis. It has been reported to reduce the histamine release associated with allergic reactions, and help prevent anaphylactic reaction. It also increased immunoglobulin-A levels in 2,000 chronic bronchitis patients.

Other formulas containing this herb:

[Cat's Claw/Astragalus/Reishi](#)
[Cat's Claw/Pau'd Arco Plus](#)
[Immun-Essence Plus](#)

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Shiitake mushroom (*Lentinus edodes*)

Actions: Adaptogen, deep immune activator, antiviral, antineoplastic.

Common Use: Shiitake is used for any and all diseases involving depressed immune function, including cancer, AIDS, environmental allergies, candida infections and frequent colds and flus. It also appears to be beneficial for soothing bronchial inflammations and regulating urine incontinence, as well as for reducing chronic high cholesterol. Shiitake mycelia is rich in carbohydrates, protein, vitamins and minerals. It contains a polysaccharide-protein complex that studies have shown to: accelerate degeneration of tumor cells; activate macrophages, promoting recognition of antigens and information transmission to the helper T-cells and increasing the rate at which objects are engulfed; reinforce interleukin-1 production, activating the helper T-cells; promote the mitosis of B-lymphocytes (and others), increasing their proliferation; increase antibody production; improve health of chronic hepatitis patients; and inhibit the HIV virus, benefiting AIDS patients. This fungi has been extensively studied in the Orient and elsewhere, the reported beneficial findings are too detailed and numerous to mention here. For anyone with further interest we recommend reading *Medicinal Mushrooms* by Christopher Hobbs, subjects include reishi, shiitake, maitake, kombucha, and more.

Other formulas containing this herb:

[Immun-Essence Plus](#)
[Milk Thistle/Schizandra Plus](#)

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Cordyceps fungus (*Cordyceps sinensis*)

Actions: Adaptogen, tonic, immune stimulant, restorative.

Common Uses: Caterpillar fungus or Winter Worm - Summer Grass, those are the common names used for the highly prized Chinese tonic herb Cordyceps, which gained national publicity in a mainstream publication (Newsweek) a few years back because of its use by Chinese women athletes engaged in breaking world running records. In ancient China this fungus was used exclusively in the Emperor's Palace because of its scarcity. Approximately 5 grams were stuffed into the stomach of a duck and roasted until well cooked, then the Cordyceps was removed and the duck was slowly eaten, twice daily over a period of 8-10 days, this was thought to be as potent as 50 grams of Panax Ginseng. The New York

<http://www.herbalformulas.com/mitcpinfo.html>

2/29/2008

Complaint

Journal of Medicine reported that Cordyceps has properties similar to Ginseng, being used to strengthen the body after exhaustion or long term illness. It has traditionally been used for impotence, backache, to increase sperm production and to increase blood production. In China, Cordyceps is used medically to regulate and support the gonads and as a lung and kidney tonic. It is used specifically for excess tiredness, chronic cough and asthma, impotence, debility, anemia, to build the bone marrow and reduce excess phlegm. The clinical studies done on Cordyceps in China have been numerous and remarkable, indicating the fungus can improve liver functions, reduce cholesterol, adjust protein metabolism, improve immune functions, inhibit lung carcinoma and has a therapeutic value in the treatment of aging disorders including loss of sexual drive. These are just some of the reported benefits attributed to this remarkable fungus. Not recommended if nursing or pregnant.

Other formulas containing this herb:

[Catuaba/Fo-ti Plus](#)
[Catuaba/Guarana Plus](#)
[Damiana Plus](#)
[Panax Power Plus](#)
[SumaFlex Plus](#)
[SuMasa Plus](#)
[SumaCeps Plus](#)
[Yohimbé Plus](#)

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Chinese Astragalus root (*Astragalus membranaceus*)

Actions: Deep immune activator, diuretic, tonic, hypotensive, vasodilator, anti-stress agent.

Common Use: A digestive aid containing polysaccharides which enhance immune activity and T-cell function. In Traditional Chinese Medicine astragalus is considered a deep immune tonic that increases the "bone marrow reserve", increasing the body's ability to produce more immune effector cells (such as T-cells), protecting us from "pathogens". Also used as a daily tonic when one is not feeling well; it has the ability to build the energy reserves in the body and exhibits several anti-stress properties. Astragalus root has also been indicated as an aid in the side effects of chemotherapy as well as having the ability to inhibit tumor growth. If taken cumulatively, especially with Chinese Ligustrum (Privet) fruit, it shows marked anti-tumor properties.

Other formulas containing this herb:

[Astragalus/Ligustrum 75/25](#)
[Cat's Claw/Astragalus/Reishi](#)
[Cat's Claw/Pau d'Arco Plus](#)
[Echinacea Plus](#)
[Panax Power Plus](#)
[Immun-Essence Plus](#)
[SumaCeps Plus](#)

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Rose Hips (*Rosa canina*)

Actions: Nutrient, mild laxative, mild diuretic, mild astringent.

Complaint

Common Use: Rose hips provide one of the best natural sources of vitamin C available. They are also rich in vitamins A, E and Rutin. They contain valuable nutrients believed to combat acute disease. Rose hips is a nutritional herb used to build up the body and strengthen the immune system.

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▪ Ingredients

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Important notice:

The information presented here is not presented with the intention of diagnosing any disease or condition or prescribing any treatment. It is offered as information only, for use in the maintenance and promotion of good health in cooperation with a licensed medical practitioner. In the event that any individual should use the information presented on this website without a licensed medical practitioner's approval, that individual will be diagnosing for him or herself. No responsibility is assumed by the author, publisher or distributors of this information should the information be used in place of a licensed medical practitioner's services. No guarantees of any kind are made for the performance or effectiveness of the preparations mentioned on this website.

Furthermore, this information is to be used for educational purposes only and has been based solely on the traditional and historic use of a given herb, or on clinical trials that are generally not recognized by any US government agency or medical organization. This information has not been evaluated by the US Food and Drug Administration, nor has it gone through the rigorous double-blind studies required before a particular product can be deemed truly beneficial or potentially dangerous and prescribed in the treatment of any condition or disease.

Decision and Order

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Sections 5 and 12 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that any of the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with § 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1.a. Respondent Native Essence Herb Company ("Native Essence") is or has been a New Mexico corporation, with its principal office or place of business at 4 Tune Drive, Unit B, El Prado, New Mexico 87529.

1.b. Respondent Mark J. Hershiser is an officer of Native Essence. Individually or in concert with others, he has formulated, directed, controlled, or participated in the policies, acts, or practices

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of Native Essence, including the acts and practices alleged in this complaint. His principal office or place of business is the same as that of Native Essence.

1.c. Respondent Marianne Hershiser is an officer of Native Essence. Individually or in concert with others, she has formulated, directed, controlled, or participated in the policies, acts, or practices of Native Essence, including the acts and practices alleged in this complaint. Her principal office or place of business is the same as that of Native Essence.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of the law;
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may

Decision and Order

either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the Commission's complaint, or that the facts as alleged in the Commission's complaint, other than the jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the decision containing the agreed-to order to respondents' address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Decision and Order

ORDER**DEFINITIONS**

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “respondents” means Native Essence Herb Company, a corporation, its successors and assigns and its officers; Mark J. Hershisier, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation; and Marianne Hershisier, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation; and each of the above’s agents, representatives and employees.
2. “Commerce” means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
3. “Competent and reliable scientific evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
4. “Food” and “drug” mean “food” and “drug” as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55.
5. “Covered product or service” means any food, dietary supplement, or drug, including, but not limited to, Native Essence (Rene Caisse) Formula tea or extract, Native Essence Plus tea or extract, Native Essence with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract, or any other health-related product, service, or program.

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6. “Endorsement” means as defined in 16 C.F.R. § 255.0(b).

I.

IT IS ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale, or distribution of Native Essence (Rene Caisse) Formula tea or extract, Native Essence Plus tea or extract, Native Essence with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract, or any substantially similar product or any other covered product or service, in or affecting commerce, shall not represent, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, that:

- A. Such product is effective in the treatment or cure of cancer;
- B. Such product prevents or lowers the risk of cancer;
- C. Such product is effective in reducing the size of, or eliminating, cancerous tumors; or
- D. Such product is safe or non-toxic or has no side effects;

unless the representation is true, non-misleading, and, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, in connection with the manufacturing, advertising, labeling, promotion, offering for sale, sale, or distribution of any covered product or service, in or affecting

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commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, about the efficacy, performance, or health-related benefits of any covered product or service, unless the representation is true, non-misleading, and, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

IV.

IT IS FURTHER ORDERED that:

- A. Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for such drug under any tentative or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and
- B. Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

V.

Decision and Order

IT IS FURTHER ORDERED that:

- A. Respondents shall, within seven (7) days after the date of service of this order, deliver to the Commission a list, in the form of a sworn affidavit, of all consumers who purchased Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cat's Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula, on or after January 1, 2005 through the date of service of this order. Such list shall include each consumer's name and address, the product(s) purchased, and, if available, the consumer's telephone number and email address;
- B. Within forty-five (45) days after the date of service of this order, respondents shall send by first class mail, postage prepaid, an exact copy of the notice attached as Attachment A to all persons identified in Part V.A. The face of the envelope containing the notice shall be an exact copy of Attachment B. The mailing shall not include any other documents; and
- C. Except as provided in this order, respondents, and their officers, agents, servants, employees, attorneys, and representatives shall not sell, rent, lease, transfer, or otherwise disclose the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any respondent, at any time prior to issuance of this order, in connection with the purchase of Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cats Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus extract. *Provided, however*, that respondents may disclose such identifying information to the FTC pursuant to Part

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V.A, above, or any law enforcement agency, or as required by any law, regulation, or court order.

VI.

IT IS FURTHER ORDERED that respondents shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. A specimen copy of all advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call 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.

VII.

IT IS FURTHER ORDERED that respondent Native Essence Herb Company, and its successors and assigns, and respondents Mark J. Hershiser and Marianne Hershiser shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondents shall maintain and upon request make available to the Federal Trade Commission for

Decision and Order

inspection and copying a copy of each signed statement acknowledging receipt of the order.

VIII.

IT IS FURTHER ORDERED that respondent Native Essence Herb Company, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

IX.

IT IS FURTHER ORDERED that respondents Mark J. Hershisier and Marianne Hershisier, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of their current business or employment, or of their affiliation with any new business or employment. The notice shall include respondents' new business address and telephone number and a description of the nature of the business or employment and their duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

X.

Decision and Order

IT IS FURTHER ORDERED that respondents shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

XI.

This order will terminate on May 7, 2029, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondents did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though

Decision and Order

the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

FEDERAL TRADE COMMISSION DECISIONS
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Attachment A**ATTACHMENT A**
LETTER TO BE SENT BY FIRST CLASS MAIL
[To be printed on letterhead of Native Essence Herb Company]

[Name and address of recipient] [Date]

Dear [Recipient]:

Our records show that you bought Native Essence (Rene Caisse or essiac herbs) Formula, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, and/or Mai-T Mushroom Plus Formula from one of our websites, www.herbalformulas.com, www.herbmed.com, www.herbalalternative.com, and www.herbremedy.com. We are writing to tell you that the Federal Trade Commission ("FTC") has found that our advertising claims for these products were false or unsubstantiated, and has issued an Order prohibiting us from making those claims in the future. The Order entered against us also requires that we send you the following information about the scientific evidence on these products.

Very little scientific research has been done concerning Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus as a treatment or cure for cancer in humans. The scientific studies that have been done do not demonstrate that Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus, or the ingredients in these products, are effective when used as treatments for cancer.

It is very important that you talk to your doctor or health care provider before using *any* alternative or herbal product, including Native Essence, Native Essence Plus, Native Essence with Cat's Claw, chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus. Speaking with your doctor is important to make sure that all aspects of your medical treatment work together. Things that seem safe, such as certain foods, herbs, or pills, may interfere or affect your cancer or other medical treatment, or other medicines you might be taking. Some herbs or other complementary or alternative treatments may keep your medicines from doing what they are supposed to do, or could be harmful when taken with other medicines or in high doses. It also is very important that you talk to your doctor or health care provider before you decide to take any alternative or herbal product, including Native Essence, Native Essence Plus, Native Essence with Cat's Claw, Chaparral herb, Maitake mushrooms, or Mai-T Mushroom Plus, instead of taking conventional cancer treatments that have been scientifically proven to be safe and effective in humans.

If you would like further information about complementary and alternative treatments for cancer, the following Internet web sites may be helpful:

1. The National Cancer Institute: www.cancer.gov/cancertopics/pdq; or
2. The National Center for Complementary and Alternative Medicines: www.nccam.nih.gov

Attachment A

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You also can contact the National Cancer Institute's Cancer Information Service at 1-800-4-CANCER or 1-800-422-6237.

Sincerely,

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Attachment B

ATTACHMENT B

Native Essence Herb Company
P.O. Box 189
Carson, New Mexico 87517

[name and address of purchaser]

GOVERNMENT ORDERED NOTICE

Attachment B

Analysis to Aid Public Comment

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Native Essence Herb Company, a corporation, Mark J. Hershiser, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation, and Marianne Hershiser, individually, d/b/a Native Essence Herb Company, and as an officer of the corporation (“respondents”).

The proposed consent order has been placed on the public record for thirty days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter concerns the respondents’ advertising and promotion of Native Essence (Rene Caisse) Formula tea and extract, Native Essence Plus tea and extract, Native Essence with Cat’s Claw tea and extract, chaparral herb, Maitake mushroom extract, and Mai-T Mushroom Plus Formula extract. The complaint alleges that respondents have made a number of deceptive claims regarding the efficacy of these products in the prevention, treatment or cure of cancer.

Specifically, the Commission’s complaint alleges that respondents have claimed that their Native Essence Original Formula, Native Essence Plus, and Native Essence with Cat’s Claw products are effective in treating and curing cancer, including but not limited to lymphoma, colon cancer, rectal cancer, and prostate cancer. The complaint also alleges that respondents have claimed that these products are effective in reducing the size of, or eliminating, cancerous tumors. The complaint further alleges that respondents have claimed that Native Essence Plus is effective in preventing breast cancer. The complaint alleges that respondents did

Analysis to Aid Public Comment

not have a reasonable basis for these claims. The complaint also alleges that respondents falsely claimed that scientific research proves that Native Essense Plus prevents breast cancer, and that scientific studies prove that Native Essense with Cat's Claw is effective in the treatment of cancer.

Regarding chaparral herb, the Commission's complaint alleges that respondents claimed that chaparral herb is effective in treating and curing cancer, is effective in causing people with cancer to go into complete remission without the need for any other form of treatment, and is effective in shrinking or eliminating cancerous tumors. The complaint alleges that respondents lacked a reasonable basis for these claims.

The complaint also alleges that respondents lacked a reasonable basis for the claims that Mai-T Mushroom Plus is effective in preventing, treating and curing cancer, including but not limited to lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Kaposi's sarcoma; and that Mai-T Mushroom Plus is effective in inhibiting the growth of cancerous tumors. Finally, the complaint alleges that respondents falsely claimed that clinical studies prove that

Maitake mushrooms and Mai-T Mushroom Plus prevent and treat lung cancer, stomach cancer, hepatocellular cancer, leukemia, and Kaposi's sarcoma, and inhibit tumor growth.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I requires respondents to have competent and reliable scientific evidence substantiating any claim that Native Essense (Rene Caisse) Formula tea or extract, Native Essense Plus tea or extract, Native Essense with Cat's Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract, or any other covered product or service, is effective in the treatment or cure of cancer; prevents or lowers the risk of cancer; is effective in reducing the size of, or eliminating, cancerous tumors; or is safe or

Analysis to Aid Public Comment

non-toxic or has no side effects. A “covered product or service” is defined as any food, dietary supplement, or drug, including, but not limited to any of the above products, or any other health-related product, service, or program.

Part II requires that any future claim about the efficacy, performance, or health-related benefits of any covered product or service be truthful and supported by competent and reliable scientific evidence. Part III requires that respondents, in connection with the advertising of any product, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Part IV of the proposed order provides that the order does not prohibit respondents from making representations for any drug that are permitted in labeling for the drug under any tentative or final Food and Drug Administration (“FDA”) standard or under any new drug application approved by the FDA, and representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Part V of the proposed order requires respondents to compile a list of all consumers who purchased Native Essence (Rene Caisse) Formula tea or extract, Native Essence Plus tea or extract, Native Essence with Cat’s Claw tea or extract, chaparral herb (or any product containing chaparral herb), Maitake mushroom extract, or Mai-T Mushroom Plus Formula extract from respondents since July 1, 2005, and to mail a letter (attached to the proposed order as

Attachment A) to each such purchaser describing the scientific evidence related to these products. Part V also prohibits respondents from providing any identifying information about these purchasers to anyone other than the Commission, another law enforcement agency, or as required by law.

Part VI of the proposed order requires respondents to keep copies of relevant advertisements and materials that substantiate claims

Analysis to Aid Public Comment

made in the advertisements. Part VII requires respondents to provide copies of the order to certain of their employees. Part VIII requires the corporate respondent to notify the Commission at least thirty days prior to any change in the corporation that may affect compliance obligations arising under this order. Part IX requires the individual respondents to notify the Commission of their affiliation with any new business or employment. Part X requires respondents to file compliance reports with the Commission. Part XI of the proposed order is a “sunset” provision, dictating that the order will terminate twenty years from the date it is issued or twenty years after a complaint is filed in federal court, by either the United States or the FTC, alleging any violation of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF

BASF SECONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE FEDERAL TRADE
COMMISSION ACT

*Docket No. C-4253, File No. 081 0265
Complaint, April 1, 2009 – Decision, May 14, 2009*

This consent order addresses the \$5.1 billion acquisition by BASF of the outstanding stock of Ciba Holding, Inc. The complaint alleges that the acquisition would lessen competition in the world markets for the research, development, manufacture and sale of bismuth vanadate and indanthrone blue pigments. The complaint further alleges that these markets are highly concentrated and that that entry by another competitor is unlikely. The order requires BASF to either: (1) divest the Ciba bismuth vanadate production facility, (2) lease the production facility to the acquirer, or (3) enter into a tolling agreement that provides sufficient time for the acquirer to begin production at its own facilities and to qualify that production with customers. The order also provides ancillary relief and allows the Commission to appoint an interim monitor and a divestiture trustee as needed.

Participants

For the *Commission*: Wallace W. Easterling, Victoria E. Luxardo, Eric D. Rohlck, and Steven L. Wilensky.

For the *Respondent*: Kenneth S. Prince, Shearman & Sterling LLP; and Robert Schlossberg, Freshfields Bruckhaus Deringer US LLP.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (the “Commission”), having reason to believe that respondent BASF SE (“BASF”), a corporation, and Ciba Holding Inc. (“Ciba”), a corporation, both subject to the jurisdiction of the Commission, have agreed to an