

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman
Maureen K. Ohlhausen
Terrell McSweeney**

In the Matter of

CALIFORNIA NATUREL, INC., a corporation.

DOCKET NO. 9370

COMPLAINT

The Federal Trade Commission, having reason to believe that California Naturel, Inc., a corporation, has 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 California Naturel is a Delaware corporation with its principal office or place of business at 480 Gate 5 Road – Suite 114, Sausalito, California 94965.
2. Respondent has advertised, labeled, offered for sale, sold, and distributed products to consumers, including Sunscreen SPF 30. This sunscreen product is a “drug” within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent advertises Sunscreen SPF 30 on the Internet. This product retails for \$35.
5. Respondent has disseminated or has caused to be disseminated advertisements for Sunscreen SPF 30, including but not necessarily limited to the attached Exhibits A-B. These materials contain the following statements:

A. California Naturel’s “Sunscreen SPF 30” webpage states:

This soft, luxurious and non-oily all natural sunscreen is formulated with Glacial Oceanic Minerals and Zinc Oxide to protect the skin from both UVA and UVB rays. It is enriched with antioxidants from botanical sources such as Shea Butter, Pomegranate Extract and Marigold Flower Extract to increase skin hydration and protection from environmental damage.

Exhibit A, Internet webpage www.californianaturel.com/sunscreen-spf-30 (August 2015).

- B. The text under the heading “Our Ingredients” on California Naturel’s “Ingredients” webpage states:

California Naturel uses only the purest, most luxurious and effective ingredients found in nature. All of our formulas are naturally scented and free of parabens and harsh synthetic chemicals. Our ingredients have been thoughtfully selected for their highly interactive properties, subtle scents, pleasurable textures and effectiveness on skin.”

Exhibit B, Internet webpage www.californianaturel.com/ingredients#filter=.f-ss (August 2015).

Count I
False Claim

6. In connection with the advertising, labeling, promotion, offering for sale, or sale of Sunscreen SPF 30, Respondent has represented, directly or indirectly, expressly or by implication, that the product is an “all natural” sunscreen.

7. In fact, Sunscreen SPF 30 is not “all natural” because it contains or contained a synthetic ingredient Dimethicone. Therefore, the “all natural” representations set forth in Paragraph 6 are false or misleading.

Violations of Sections 5(a) and 12

8. The acts and practices of Respondent as 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.

NOTICE

You are notified that on December 12, 2016, at 10:00 a.m., at the Federal Trade Commission offices, 600 Pennsylvania Avenue, NW, Room 532-H, Washington, DC 20580, an Administrative Law Judge of the Federal Trade Commission will hold a hearing on the charges set forth in this Complaint. At that time and place, 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.

You are notified that you are afforded the opportunity to file with the Federal Trade Commission (“Commission”) an answer to this Complaint on or before the 14th day after service of the Complaint upon you. An answer in which the allegations of the Complaint are contested must 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 will be deemed to have been admitted.

If you elect not to contest the allegations of fact set forth in the Complaint, the answer should consist of a statement that you admit all of the material facts to be true. Such an answer will 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 Commission may issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such answer, you may, however, reserve the right to submit proposed findings of fact and conclusions of law under FTC Rule § 3.46.

Failure to answer timely will be deemed to constitute a waiver of your right to appear and contest the allegations of the Complaint. It will also authorize the Commission, without further notice to you, to find the facts to be as alleged in the Complaint and to enter a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding.

The Administrative Law Judge will hold an initial prehearing scheduling conference, to be held not later than 10 days after the answer is filed by the Respondent. Unless otherwise directed by the Administrative Law Judge, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room 532-H, Washington, DC 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, but in any event no later than 5 days after the answer is filed by the Respondent. 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.

The following is the form of the 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 concludes from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions as to Respondent might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary and appropriate.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, "respondent" shall mean California Naturel, a corporation, its successors and assigns, and its officers, agents, representatives, and employees.
2. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, 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 must not make any representation, expressly or by implication, including through the use of a product name, trademark, or trade name, about:

- A. whether such product is all natural or 100% natural;
- B. the extent to which such product contains any natural or synthetic ingredient or component;
- C. the ingredients or composition of such product; or
- D. the environmental or health benefits of such product,

unless the representation is non-misleading, including that, at the time such representation is made, the respondent possesses and relies upon competent and reliable evidence, which when appropriate based on the expertise of professionals in the relevant area must be competent and reliable scientific evidence, that is sufficient in quality and quantity based on standards generally accepted in the relevant fields when considered in light of the entire body of relevant and reliable evidence, to substantiate that the representation is true. For the purposes of this Provision:

- 1. “competent and reliable evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results; and
- 2. “competent and reliable *scientific* evidence” means tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons, using procedures generally accepted in the profession to yield accurate and reliable results.

II.

IT IS FURTHER ORDERED that respondent California Naturel, and its successors and assigns, 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. 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 its 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.

III.

IT IS FURTHER ORDERED that respondent California Naturel, and its successors and assigns, 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. Respondent 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. Respondent must maintain and upon request make available to the Federal Trade Commission for inspection and copying all acknowledgments of receipt of this order obtained pursuant to this Part.

IV.

IT IS FURTHER ORDERED that respondent California Naturel, 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. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re California Naturel, Docket No. 9370.

V.

IT IS FURTHER ORDERED that respondent California Naturel, and its successors and assigns, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VI.

IT IS FURTHER ORDERED that the final and effective date of this Order is the 60th day after this Order is served. This Order will terminate 20 years from the date of its issuance (which is stated at the end of this Order, next to the Commission's seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Provision in this Order that terminates in less than 20 years;
- B. This Order if such complaint is filed after the Order has terminated pursuant to this Provision. If such complaint is dismissed or a federal court rules that the Respondent 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 Provision 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.

THEREFORE, the Federal Trade Commission, this eleventh day of April, 2016, has issued this Complaint against Respondent.

By the Commission.

SEAL:

Donald S. Clark
Secretary

EXHIBIT A



Sunscreen SPF 30

This soft, luxurious and non-oily all-natural sunscreen is formulated with Glacial Oceanic Minerals and Zinc Oxide to protect the skin from both UVA and UVB rays. It is enriched with antioxidants from botanical sources such as Shea Butter, Pomegranate Extract and Mangold Flower Extract to increase skin hydration, and protect it from environmental damage.

- Protects from UVA and UVB rays
- Increases skin hydration
- Enriched with antioxidants

\$35 / 70 ml / 2.3 fl. oz.

Quantity

1

ADD TO CART

Directions

Apply liberally 15 minutes before sun exposure. Reapply immediately after swimming, sweating or towel drying, and at least every 2 hours.

What to Expect

- **Texture:** medium-weight cream
- **Scent:** subtle herbal scent
- **Sensation on skin:** non sticky, non oily, matte finish

Ingredients

Active Ingredients:

Zinc Oxide 20% (Sunscreen)

Inactive Ingredients:

Butyrospermum parkii (shea) butter, caprylocapric triglyceride, carrageenan, Carthamus tinctorius (safflower) seed oil, cetearyl alcohol, cetearyl glucoside, cetyl palmitate, coco-caprylate, dimethicone, glucose, glucose oxidase, Helianthus annuus (sunflower) seed oil, lauric acid, lactoperoxidase, lecithin, lysolécithin, methylcellulose, polyglyceryl-3 polyricinoleate, polyhydroxystearic acid, Punica granatum (pomegranate) fruit extract, pulikari, Rosmarinus officinalis (rosemary) leaf extract, sclerotium gum, Sea Salt extract (Glacial Oceanic Mineral Water), sorbitan olivate, sorbitan palmitate, stearyl alcohol, Tegetes erecta flower extract, xanthan gum

You might also like...



Lip Balm

\$7

Broad-spectrum protection UVA/UVB

EXHIBIT B

Our Ingredients

California Naturel uses only the purest, most luxurious and effective ingredients found in nature. All our formulations are naturally scented and free of parabens, sulfates, and harsh synthetic chemicals. Our ingredients have been thoughtfully selected for their highly active properties, subtle scents, pleasurable textures and effectiveness on skin.

SHOW ALL

GENTLE CLEANSING GEL

BALANCING COMPLEX

NOURISHING CREAM

SUNSCREEN SPF 30

LIP BALM SPF 8



Crithmum maritimum extract



Punica granatum (pomegranate) fruit extract



Butyrospermum parkii (shea) butter



Helianthus annuus (sunflower) seed oil



p-Anisic Acid



Dimethicone



Chamomilla recutita (matricaria) flower extract



Sclerotium gum



Coco-caprylate



gluconolactone, sodium benzoate



Zinc Oxide

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