



Supplement Advisory Group

# IMMUNITY

## MASTERING THE MARKET

Communicating in store and online  
where are we now


**Asa Waldstein**  
Principal, Supplement Advisory Group

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## Asa Waldstein

- **Principal: Supplement Advisory Group**
- **Founder: Asa's Regulatory Education Series**
- **American Herbal Products Association (AHPA)**
  - Cannabis Committee Chair
- **20+ Years Manufacturing/Marketing Supplements**
- **3 FDA Inspections: No 483's**
- **Certified Clinical Herbalist**



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## Update on key regulatory trends

**Tea Marketer Misled Consumers, Didn't Adequately Disclose Payments to Well-Known Influencers, FTC Alleges**

March 6, 2020

**Teami claimed products could cause weight loss and treat diseases**

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## FTC Complaint Against Teami

(Exhibit 3; portion of Teami Alive product page on the Teami website).

**C. Teami Relax Tea**

**Excerpts from the Teami Relax page of the Teami website; captured on November 6, 2018**

Teami Relax  
DESCRIPTION

....  
Teami Relax contains potassium, calcium and vitamin B which strengthen the immune system prevent colds, flu and a variety of other illnesses.

Finally, the order imposes a **\$15.2 million judgment—the total sales of the challenged products—**which will be suspended upon payment of \$1 million, based on the defendants' inability to pay the full judgment.

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# “Supports Immunity” can attract attention



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# Common Pitfalls to Avoid

## Immunity support +disease =high risk

FDA Warning Letter, Glenn Burkett Naples Corporation, 1/22/22

- “Krill Oil [included in the Candida Kit] Omega-3 supports immune system against Candida”

FDA Warning Letter, Applied Health Solutions, Inc. 11/22/21

- Chronic Fatigue Syndrome – To generally build up immune system, gradually increase GSE amount to the recommended dosage for colds, flus, and viruses. . .

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## All Marketing is Considered “Labeling”

- Product reviews & testimonials
- Social media posts
- Blogs
- Newsletters
- Amazon storefront
- Infographics

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## Key Enforcement Trends

- Social media
- Testimonials
- Videos
- Amazon
- Blogs



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## Hashtags are Claims

- A normally compliant post can be made non-compliant by the use of a hashtag


e.g. #COVID, #NoMasFlu, #FluSeason




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## Hashtags are Claims



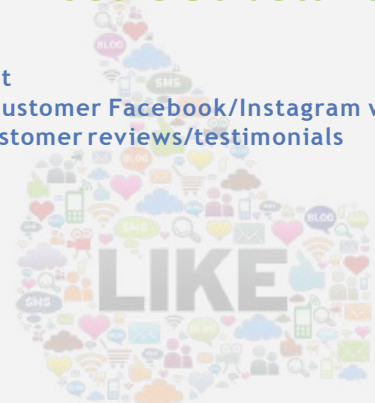
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**“Liking” A Post is Substantiating**

- “Liking” a post
- Replying on customer Facebook/Instagram wall comments
- Reposting customer reviews/testimonials (website, Facebook, etc..)




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**Influencers: Disclose Material Connection**

#Ad  
#Sponsored  
#SugarBearAmbassador  
#SugarBearPartner



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**Proper: Discloser Example**


The image shows a social media post by user 'kylejenner'. On the left is a photo of a woman with long dark hair holding a white bag of 'FriTea 28 Day Detox'. On the right is the text of the post, which includes the text '#ad using @fritea before my shoots is my favorite'. A red box highlights the '#ad' and a red arrow points to it. Below the post text are several comments, including one from 'noahgalloway1983' that says 'Write this on 7 posts or your mom will die tomorrow.' and another from 'noahgalloway1983' that says 'This is not fake write this in 15 pictures and you will be missed tomorrow. Break this chain and you will see a demon in 53 minutes'. The post has 775k likes and is 24 weeks old. The website 'AsaWaldstein.com' is visible in the bottom left corner.

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**Proper: Discloser Example**

The image shows a social media post by user 'fatherkels'. On the left is a photo of a woman with long brown hair holding a blue jar of 'SUGAR BEARS HAIR VITAMIN'. On the right is the text of the post, which includes the text 'still loving my @sugar\_bears'. A red box highlights '@sugar\_bears' and a red arrow points to it. Below the post text are several comments, including one from 'dam.thames' that says 'Tumblr page come check out my page and tell me what you think of it I post tumblr photos and inspire themes'. The post has 74k likes and is 2 weeks old. The website 'AsaWaldstein.com' is visible in the bottom left corner.

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## Common Pitfalls to Avoid


Immunity support +disease =high risk

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- “Krill Oil [included in the Candida Kit] Omega-3 supports immune system against Candida”

FDA Warning Letter, Applied Health Solutions, Inc, 11/22/21

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## Best Practices For Lower-Risk Marketing

- Claims should be substantiated
- No high-risk “disease” words
- Train social media managers and content writers
- All marketing is “labeling”
- Blogs are considered marketing
- Follow enforcement trends



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 **Thank You**

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