

DECEPTIVE PRACTICES SUPPORTING THE HERBALIFE PYRAMID SCHEME: LEAD GENERATION

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Introduction

Herbalife Ltd. (NYSE:HLF) is an unlawful pyramid scheme that relies upon, fosters, promotes, honors, and financially rewards deceptive recruiting businesses operated by its top distributors. Because there is little genuine retail demand for Herbalife's overpriced commodity products, in order to generate revenues, the company depends on the endless recruitment of new distributors who purchase large volumes of Herbalife products in the hope that they will climb the Herbalife Sales & Marketing plan and qualify for recruiting rewards.

The only way to recruit unsuspecting victims into a perpetual recruitment scheme like Herbalife is through deception about the (illusory) "business opportunity." The senior-most Herbalife distributors have figured this out, and they have developed and continue to develop systems that deceive vast numbers of people who become new Herbalife distributors. The precise means of deception vary, but the essential deception is the same.

In a court filing on December 18, 2013, in *FTC v. Trudeau*, the FTC's economic expert on pyramid schemes, Dr. Peter Vander Nat, submitted a declaration analyzing a pyramid scheme.[1] In his Declaration, Dr. Vander Nat cites the many cases in which he has served as the FTC's expert on pyramid schemes, and he notes: "No Court has ever rejected my conclusion that a particular enterprise constituted a pyramid scheme." Dr. Vander Nat states:

"A pyramid scheme is a perpetual recruitment chain in which the design of the scheme's compensation plan dooms the vast majority of participants to financial failure. The *Koscot test* – adopted by the federal courts – applies this meaning to ongoing recruitment in the context of multilevel marketing (MLM), focusing on an MLM firm that sells a product or service and pays recruitment rewards that are unrelated to the sale of the product/service to people outside the MLM's network."

Herbalife is a pyramid scheme under Dr. Vander Nat's definition: (1) the design of its compensation plan "dooms the vast majority of participants to financial failure" and (2) it pays rewards based upon purchases of product by new recruits that are "unrelated to the sale of product/service to people outside the MLM's network" (as a federal district court judge found in *Herbalife v. Ford*).[2]

Senior Herbalife distributors engage in a wide variety of deceptive practices aimed at drawing recruits into the Herbalife scheme, creating the false impression that it is easy for new Herbalife distributors to strike it rich. The reality is very different: the vast majority of new Herbalife distributors fail, often losing thousands or tens of thousands of dollars in the process. Not only is Herbalife well aware of the conduct of these senior distributors, many of whom are members of the Founder's Circle and Chairman's Club, but Herbalife promotes, rewards, and celebrates their conduct.

Pershing Square is releasing a series of research papers on the deceptive recruiting systems on which Herbalife and its senior distributors rely. These profiles include:

- Shawn Dahl, a 14-year Herbalife veteran, a member of the Chairman's Club until June 2013, and a top distributor in recent years;
- Doran Andry, a 22-year Herbalife veteran, a member of the Chairman's Club, and a top distributor in recent years;
- Leslie Stanford, a 33-year Herbalife veteran, a member of the Founder's Circle, and former member of the Board of Directors;
- John Tartol, a 32-year Herbalife veteran, a member of the Chairman's Club, and current member of the Board of Directors;
- Dan Waldron, a 32-year Herbalife veteran and a member of the Chairman's Club; and
- Rick & Carla Berg, who have been Herbalife distributors for more than 15 years and are members of the President's Team.

Without compulsory process, we are, of course, limited in what we can collect from available sources, damning as the evidence uncovered to date may be. We are confident, however, that regulators, making use of their subpoena power, could learn much more about the highly deceptive ways in which senior distributors recruit people into the Herbalife scheme, and the massive financial losses suffered by their unsuspecting victims.

Each of the senior distributors being profiled has engaged in a number of deceptive practices. Below, Pershing Square describes lead-generation, a particularly pernicious and deceptive practice uncovered by its investigation.

Lead-generation

Lead-generation (or "lead-gen") is a prevalent means of deceptive recruiting that involves coaxing potential recruits to provide their contact information (with promises of achieving financial independence through a vaguely described 'business opportunity'), and then selling that contact information to another recruit who was initially brought into the scheme in the same manner.

The lead-gen process works as follows:

First, a consumer comes across an advertisement that promises easy money working from home and encourages the consumer to visit a Work-from-Home website. Lead-generation businesses, which in most cases are owned and operated by senior Herbalife distributors, run

these advertisements on the Internet, on talk radio shows, in mass mailings and flyers, and elsewhere. These advertisements—which promise “quit your job type money”—do not disclose that the business opportunity being pitched is becoming an Herbalife distributor. These advertisements have appeared on programs hosted by Sean Hannity, Rush Limbaugh, Dr. Laura Schlesinger, Glenn Beck and many other well-known radio personalities.

Second, the consumer visits the Work-from-Home website, where she is required to provide her name and contact information to learn more about the business opportunity. When she provides this information, she has become a “lead.” The website itself provides very little information about the supposed business opportunity (Herbalife generally is not mentioned), but is replete with promises of easy money and depictions of extravagant lifestyles. The website encourages the consumer to order a supposedly free “decision pack” to learn more.

Third, the consumer orders the “decision pack,” spending \$9.95 on shipping and handling for the supposedly “free” materials. The consumer is now a high-priced lead because she has gone to the trouble of ordering the decision pack and has provided her credit card information.

Fourth, a fledgling Herbalife distributor (an earlier recruit) purchases the lead, for up to \$130 or more, typically as part of a package of leads. The Herbalife distributor sends the consumer the “decision pack,” which she must purchase from her own upline distributors or from the lead-generation business itself for as much as \$39.95 per pack. This decision pack, like the website, promises easy money working from home and depicts an extravagant lifestyle complete with mansions, expensive sports cars, and yachts. Again, there is no mention of Herbalife.

Fifth, the Herbalife distributor repeatedly calls the consumer to convince her to sign up for a program with guaranteed success, using deceptive scripts and high-pressure tactics designed by the senior Herbalife distributor who runs the lead-generation business. It is on these calls that the consumer first learns that the “business opportunity” in question is to become an Herbalife distributor.

Sixth, if the consumer agrees and signs up, the consumer is charged \$39.95 for not returning the decision pack within two weeks. The new recruit is then required to purchase various support and promotional materials offered by the lead-generation business, often including web services and a merchant account for processing credit card transactions. These “business tools” are sold by the lead-gen business itself, often at exorbitant prices. The consumer is also pressured to spend approximately \$3,000 to qualify immediately as a Supervisor under the Herbalife Sales & Marketing Plan, in order to become eligible to earn royalties, bonuses, and other recruiting rewards from a downline she does not even have. The consumer is also pressured to buy leads, for up to \$130 per lead or more, decision packs to send those leads, and deceptive scripts to recruit more people into the scheme. The new recruit is encouraged to drain savings accounts and borrow money to pursue the “opportunity.”

Seventh, over time, the consumer realizes she cannot make a profit selling Herbalife products at retail and that most of the leads are worthless. The consumer reaches out to the distributor who recruited her, and is pressured to make a larger financial commitment to Herbalife on the theory that success is just around the corner. Many lead-generation businesses expressly advise

consumers to go into debt—running up balances on as many credit cards as possible—in order to buy more leads and promotional materials. Similarly, many lead-generation businesses sell recruiting and training scripts, which instruct recruiters to direct new recruits to

Ultimately, the consumer throws in the towel, often having lost thousands or tens of thousands of dollars in pursuing a business opportunity where true success is virtually impossible for a new distributor to achieve. Meanwhile the lead-generation business run by the senior Herbalife distributor has collected substantial revenue from the sale of leads, promotional materials, and Herbalife products, and Herbalife has profited handsomely as well.

Herbalife’s Long History with Lead-generation

The practice of lead-generation, which is fundamentally corrupt, emerged more than a decade ago. In late 2001, Francis X. Tirelli, who was then President of Herbalife, sent a memorandum to members of the Herbalife President’s Team,[3] stating that the practice of lead-generation was “[o]ne of our greatest opportunities.” He also said “Herbalife is committed to take full advantage of all the collective innovative and creative solutions in the marketplace with respect to Lead Generation Systems.” Recognizing the potential for abuse, Tirelli added that “if not managed properly it [lead-generation] could become our greatest risk.”

Over the next ten years, Herbalife stood by while lead-generation became a widespread business practice among senior Herbalife distributors. Numerous members of the Founder’s Circle and Chairman’s Club were involved with lead-generation. Herbalife reaped huge benefits from the fact that thousands of recruits bought Herbalife products in an effort to succeed in the business opportunity being pushed by senior Herbalife distributors like Shawn Dahl, Doran Andry, and many others. While lead-generation was filling Herbalife’s coffers, the company was not only aware of the practice but was actively promoting and defending it. Over the past decade or more, the following lead-gen and related businesses have been associated with or used to promote Herbalife:

- 2MoreMoney
- 60 Minute Money
- AES International
- Automated Direct Data Services
- Average to Fortune
- B.I.G. Entrepreneurs / Arriba! Wellness (UK)
- Dare to Succeed (S&C Marketing)
- Elite Business System
- eHome Business Network
- eTeam Marketing
- Financial Success System
- Freedom Lifestyles / Freedom Group
- FTS Marketing / Fast Track Home Business System
- Global Home Business System
- Global Online Systems
- Growth Into Greatness

HNN (Herbal Nutrition Network) Marketing System
Home Business Systems International / Home Business Associates
Home Employed
HWI (Home Wealth International) /CoroNet (South Africa)
Line Logix (tools)
MyHCMTouch (formerly NutritionClubsWorldwide)
Newest Way to Wealth
Nutrition Clubs Media
NutritionClubPro.com
NutritionClubTraining.com
Nutrition Clubs Worldwide
Online Business Systems
Peak Success System
Premier Team
Proven Plan
Recruit System
Success Connection
The Nutrition Coach
The Online System
Total Business Machine
Vertical Skip Marketing / Network Consultants
Work at Home Institute
Work from Home

In February 2002, Nancy Jacobs, a former Herbalife distributor, filed a class action lawsuit against Herbalife, Doran Andry and Andry's lead-generation business Newest Way to Wealth ("NWTW"). Jacobs asserted, among others, claims under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c), the California Endless Chain Scheme Law, Cal. Penal Code § 327, California Business and Professions Code § 17200, the common law of fraud, and federal securities laws. Jacobs alleged that:

"Herbalife's compensation structure" was "subject to . . . abuse[]" because "distributors are incentivized to focus their attention heavily on recruiting new distributors rather than on making retail sales of products," and because the compensation structure "encourage[d] distributors to purchase more products than they can feasibly sell to bona fide retail customers in order to meet volume requirements (a practice known as 'inventory-loading') and making unrealistic and even outlandish earnings claims."

With respect to NWTW, the complaint alleged that (1) NWTW's projected earnings estimates were deceptive; (2) NWTW's seminars, promotional literature, video tapes, and websites omitted and misrepresented the risks inherent in the business; and (3) NWTW/Herbalife participants typically lost \$10,000 to \$50,000 and many were forced into bankruptcy. *See Jacobs v. Herbalife International, Inc.*, No. 02-01431-FMA (RCx) (C.D. Cal.). Herbalife and its co-defendants settled the *Jacobs* action in 2005 for approximately \$6 million. Even though the *Jacobs* lawsuit underscored the illegality of lead gen, Herbalife allowed the practice to continue unabated and to grow dramatically.

Herbalife's willingness to settle the *Jacobs* action was understandable—Herbalife recognized its legal exposure arising from deceptive practices like lead gen. Indeed, just a few weeks before Pershing Square's initial presentation in December 2012, Herbalife issued an advisory to distributors stating Herbalife was unable to recognize qualifications for advancement in the Sales & Marketing Plan that were, in Herbalife's view, attributable to the use of unregistered Business Methods. Herbalife noted that if it recognized such qualifications,

“it could be misconstrued as supporting and rewarding Distributors with recognition, when the methods used to achieve the qualification may involve misleading advertising or other abuses and therefore put the Distributor and Herbalife at risk.”[4]

Of course, one can question the sincerity of that self-serving advisory because Herbalife continued to give recognition to Shawn Dahl, Doran Andry and other senior distributors who had been engaged in “misleading advertising and other abuses” for many years.

Shortly after Pershing Square's December 20, 2012 presentation showing that Herbalife is an unlawful pyramid scheme,[5] Herbalife continued its efforts—with even more urgency—to jettison its close relationship with lead-gen. In the December 20, 2012 presentation, Pershing Square had shown that new distributors are often recruited into the Herbalife scheme through deception[6] and highlighted the *Jacobs* lawsuit against NWTW, as well as a criminal prosecution in Canada against Global Online Systems, Inc. (“GOS,” run by senior Herbalife distributors Deborah Stoltz and Marilyn Thom).[7] Importantly, Pershing Square also analyzed at length the curious purchasing behavior of senior Herbalife distributor Anthony Powell,[8] and displayed screenshots of recruiting materials used by Online Business System (“OBS,” run by then-Chairman's Club member Shawn Dahl).[9]

Within a few weeks of the Presentation, Powell—a 20-year veteran of Herbalife who ran a lead-gen business known as eHome—left Herbalife.[10] At the time of Powell's departure, Herbalife spokesperson Barb Henderson explained that “Anthony Powell's stated focus is on creating ‘explosive growth’ fueled by lead purchases,” and that “this is ‘a difference in philosophy,’ not consistent with Herbalife's focus on building business through the daily consumption of our nutrition products.”[11] Because Powell had been with Herbalife over 20 years, it is surprising that company first realized this “difference in philosophies” in early 2013. Also surprising is that Powell, contrary to Herbalife's stated rules, was permitted to recruit his Herbalife downline to join him at his new venture called Vemma.

A few weeks after separating from Powell, Herbalife sought to distance itself from OBS and its owner, former Chairman's Club member Shawn Dahl. On February 14, 2013, Herbalife issued a notice informing distributors that OBS was no longer a registered provider of leads.[12] OBS had been selling leads for a decade with Herbalife's full knowledge. Other than the desire to avoid scrutiny, it is unclear why Herbalife suddenly decided that distributors should no longer be allowed to purchase leads from Shawn Dahl and companies he owned.

On March 11, 2013, the FTC released 94 consumer complaints about methods used to recruit new Herbalife distributors, many involving “lead generation.” Those complaints included 66 against OBS.[13]

A few weeks later, on April 5, 2013, under intense scrutiny of its business practices, Herbalife revised its longstanding policy on lead-generation – which had permitted the purchase of leads from non-Herbalife-related sources – and now purports to prohibit the sale or purchase of leads altogether.[14] Notably, its new policy did not include an enforcement mechanism of any kind. In any event, the new policy amounts to a concession that the practice of lead-generation often involves deception and other predatory conduct.

Herbalife’s Potential Liability for Lead Gen

Despite Herbalife’s rule changes, Herbalife continues to promote and celebrate many of the senior distributors with lead-generation businesses, and continues to actively promote those businesses as well. This is clear from Herbalife’s filings with the SEC, which consistently state that Herbalife works closely with distributors to identify and propagate practices that have been shown effective in recruiting new distributors and increasing Herbalife’s revenue. For example, page 29 of Herbalife’s 3rd Quarter 2013 Report on Form 10-Q states that “Management’s strategy is to review the applicability of expanding successful country initiatives throughout a region, and where appropriate, financially support the globalization of these initiatives.” On page 7 of Herbalife’s 2012 Report on Form 10-K, Herbalife stated that “[w]e work with our distributor leaders to globalize best-practice business methods to enable our distributors to improve their penetration in existing markets.” There is no doubt that Herbalife used this approach with lead-generation until mounting criticism caused Herbalife to seek to wash its hands of the practice.

Herbalife cannot escape liability for the enormous consumer harm caused by lead-generation. Had Herbalife wanted to put a halt to the deceptive practices engaged in by Shawn Dahl, Doran Andry, and other senior distributors, it could have done so at any time, but Herbalife chose not to. Herbalife’s rules give it the power to control distributor behavior, including Business Methods distributors use to recruit new distributors. For example, Rule 1-G of Herbalife’s Sales & Marketing Plan[15] provides that “Distributors, and any third party providing sales aids or leads to Distributors, must disclose that the business opportunity being offered to become an Herbalife distributor before a prospect or consumer’s credit card is charged or they pay or commit to pay any money for a product, service, content or materials in any form.” Further, Rule 28-E provides that “Herbalife shall have the right to suspend, terminate, or take other disciplinary action against a Distributor using leads generated by means which do not comply with the law, or using those leads in a manner which does not comply with Herbalife’s Rules of Conduct and Distributor Policies, any Herbalife Rules, or the law on this subject matter.”

More generally, Herbalife’s Enforcement Procedures (pages 122-23 of its Sales & Marketing Plan and Business Rules) provide the Company with extraordinarily broad, peremptory powers to discipline and sanction any violations of the Rules by distributors that may have a negative impact upon its business. For example, the Enforcement Procedures provide that

Herbalife may punish violations of its Rules in several ways, including by terminating or deleting a distributorship.

Introduction

The Herbalife Rules of Conduct are in place to protect the business for all Distributors. Violations of these rules are considered extremely serious. Violations can have a significant negative impact on the business for all Distributors as well as negatively influence the opinion of regulators, the media or the public about Herbalife, its products and Distributors. Herbalife attempts to educate our Distributors as to appropriate ethical business practices. In the event of a violation, the Company attempts to correct the violation by counseling the Distributor. However, more severe measures may be required in more serious cases, including, but not limited to, the following:

- Suspension of buying privileges
- Suspension of earnings
- Temporary or permanent suspension from the TAB Team Production Bonus
- Suspension from speaking at an Herbalife function
- Financial penalties or sanctions
- Termination or deletion of the Distributorship

3. Termination or Deletion of a Distributorship

- A. Herbalife maintains the right to terminate or delete a Distributorship at any time, with or without giving prior notice, whenever it deems this is the necessary and appropriate action.
- B. Termination means the complete cancellation of a Distributorship and revocation of the Distributor's right to conduct the Herbalife business. This includes cancellation of their right to receive any further income from the Distributorship whether accruing before or after the termination date. The termination is effective on the date indicated in the written notification from Herbalife to the Distributor.

Instead of enforcing these rules against Shawn Dahl, Doran Andry and others, Herbalife stood by, profited from their schemes, and did nothing to restrain their wrongdoing. We understand from a source with personal knowledge whom we consider to be reliable that Herbalife's compliance and ethics department rarely disciplines even serious violations of its Rules by senior distributors like Dahl, Andry, Stanford, Tartol and others.

Herbalife, in an attempt to avoid responsibility for the actions of senior distributors, may try to claim that those distributors are independent and that Herbalife did not know what they were doing. If Herbalife attempts to disavow responsibility, we do not believe regulators or courts would find it credible. First, as shown in Pershing Square's profiles of top distributors, unlawful practices permeate the upper-most ranks of Herbalife's distributors, including many members of its Founder's Circle and Chairman's Club. Moreover, until very recently, Herbalife's Sales & Marketing Plan required all distributors who were selling Business Methods, including the sale of leads, to register with Herbalife. In order to register, the distributor was required to provide Herbalife with a letter from counsel describing, among other things, the "content, method of operation, advertising and promotion and terms of sale and use" of the relevant Business Method. The distributor also was required to provide a registration form that listed the distributor's Herbalife Identification Number. As a result, Herbalife knew full well that many of its senior distributors owned and operated lead-generation businesses, and that the "advertising and promotion" engaged in by those lead-generation businesses were highly misleading.

On June 18, 2013, Herbalife announced that the company “will no longer require registration of Business Tools,” including lead-generation, and again recognized “the potential exposure to Herbalife” that such Business Methods generate.[16] Herbalife presumably did this in an attempt to bolster its claim that it is not liable for the harm caused by lead-generation and other deceptive practices engaged in by senior Herbalife distributors. But Herbalife’s latest efforts to distance itself from lead-generation and other deceptive practices are too little, too late. These self-serving changes demonstrate little more than willful blindness. These measures do not absolve Herbalife of responsibility for the damage inflicted on unwitting consumers in the past or going forward.

Despite Herbalife’s various pronouncements over the last year, we believe that some of the most senior Herbalife distributors—who are promoted and celebrated at Herbalife events and in Herbalife publications—continue to engage in the practice of lead-generation, as well as other large-scale deceptive schemes. This is something Herbalife likely knows already and, if not, could easily confirm if it chose to do so.

In addition, we believe that many senior Herbalife distributors are engaged in deceptive practices in connection with the proliferation of Herbalife nutrition clubs. Nutrition clubs have become a principal source of the millions of new distributors who must be recruited each year to keep the Herbalife scheme afloat. We believe that Herbalife fully understands the deceptive practices that go hand in hand with nutrition club recruiting and has actively promoted these recruitment techniques across the globe.

Herbalife cannot avoid responsibility for the deceptive and illegal practices of its highest-level distributors in the Founder’s Circle, Chairman’s Club and President’s Team. As a factual matter, Herbalife is complicit in its senior distributors’ wrongdoing. As a legal matter,

Herbalife can be held liable for deceptive practices engaged in by senior Herbalife distributors who are acting in concert with the company and cloaked with authority to act on its behalf.[17]

Moreover, the operators of a pyramid scheme can be held liable for conduct that their scheme foreseeably incentivizes. As a federal district court judge stated in *FTC v. Five-Star Auto Club*, 97 F. Supp. 2d at 530: “As a matter of law, those who put into the hands of others the means by which they may mislead the public, are themselves guilty of a violation of Section 5 of the Federal Trade Commission Act.”[18] By featuring senior distributors like Shawn Dahl, Doran Andry, and other wrongdoers at Herbalife events and in Herbalife publications, the company facilitates the systematic bilking of huge amounts of money from innocent consumers by companies run by those senior distributors.

Pershing Square Capital Management, L.P.

[1] Declaration of Dr. Peter Vander Nat in Support of Federal Trade Commission’s Opposition to Pyramid Scheme Participants’ Motion to Intervene, executed on Dec. 18, 2013, *FTC v. Trudeau*, Case No. 03-c-3904 (N.D. Ill.), Dkt. #808-3 ¶ 5

(http://herbalifepyramidscheme.com/media/2014/02/Vander_Nat_Global_Network_808-3-12.20.13.pdf). [Link to Declaration.]

[2] *Herbalife v. Ford*, No. CV 07-2529, Dkt. #374, at 16 (C.D. Cal. Aug. 25, 2009) (<http://factsaboutherbalife.com/wp-content/uploads/2012/12/Ford-Transcript.pdf>).

[3] A copy of the Tirelli memorandum is available here (<http://herbalifepyramidscheme.com/media/2014/02/Tirelli-Memo.pdf>).

[4] A copy of the December 7, 2012 Advisory is available here (<http://herbalifepyramidscheme.com/media/2014/02/Advisory-12.7.12-Unregistered-Business-Methods-Notice-Re-Bridge2Business-USEN.pdf>).

[5] A copy of the Presentation is available at <http://factsaboutherbalife.com/wp-content/uploads/2013/01/Who-wants-to-be-a-Millionaire.pdf> (<http://factsaboutherbalife.com/wp-content/uploads/2013/01/Who-wants-to-be-a-Millionaire.pdf>)

[6] Slides 176-97, 207-21.

[7] Slides 228-29.

[8] Slides 164-71.

[9] Slides 77, 212.

[10] <http://www.businessforhome.org/2013/01/anthony-powell-herbalife-joins-vemma/> (<http://www.businessforhome.org/2013/01/anthony-powell-herbalife-joins-vemma/>).

[11] <http://www.businessforhome.org/2013/01/anthony-powell-herbalife-joins-vemma/> (<http://www.businessforhome.org/2013/01/anthony-powell-herbalife-joins-vemma/>)

[12] A copy of the February 14, 2013 Notice is available at <http://herbalifepyramidscheme.com/media/2014/01/Feb-14-Notice.pdf> (<http://herbalifepyramidscheme.com/media/2014/01/Feb-14-Notice.pdf>).

[13] A copy of the FTC's response to Pershing Square's Freedom of Information Act ("FOIA") request is available at <http://factsaboutherbalife.com/wp-content/uploads/2013/04/130412herballifefinalresponse.pdf> (<http://factsaboutherbalife.com/wp-content/uploads/2013/04/130412herballifefinalresponse.pdf>).

[14] A copy of the April 5, 2013 Advisory is available here (http://herbalifepyramidscheme.com/media/2014/02/2013_Rule1-O_LeadsAdvertisingandAdvertisingSlots_USEN.pdf).

[15] A copy of the Sales and Marketing Plan is available at <http://factsaboutherbalife.com/wp-content/uploads/2012/12/Marketing-Plan-and-Business-Rules-2012.pdf> (<http://factsaboutherbalife.com/wp-content/uploads/2012/12/Marketing-Plan-and-Business-Rules-2012.pdf>)

Rules-2012.pdf).

[16] A copy of the June 18, 2013 Notice is available here (http://herbalifepyramidscheme.com/media/2014/02/2013_Registration_CautionaryNoticeAdvisory_USEN.PDF).

[17] *See FTC v. Five-Star Auto Club*, 97 F. Supp. 2d 502, 527 (S.D.N.Y. 2000); *see also FTC v. Medical Billers Network, Inc.*, 543 F. Supp. 2d 283, 319 (S.D.N.Y. 2008); *FTC v. Stefanichik*, No. C04-1852RSM, 2007 WL 1058579, at *8 (W.D. Wash. Apr. 3, 2007); *FTC v. Capital Choice Consumer Credit, Inc.*, No. 02 Civ. 21050, 2004 WL 5149998, at *46 (S.D. Fla. Feb. 20, 2004), *aff'd*, 157 F. App'x 248 (11th Cir. 2005); *FTC v. Skybiz.com, Inc.*, 01-CV-396-K(E), 2001 WL 1673645, at *9 (N.D. Okla. Aug. 31, 2001) *aff'd sub nom. F.T.C. v. Skybiz.com, Inc.*, 57 F. App'x 374 (10th Cir. 2003).

[18] *See also, e.g., FTC v. BurnLounge, Inc.*, No. CV 07-3654-GW(FMOx), slip op. at 23 (C.D. Cal. July 1, 2011) (holding parent company liable for conduct of participants in pyramid scheme); *Bounds v. Figuettes, Inc.*, 185 Cal.Rptr. 480, 481, 486-87 (Cal. App. Ct. 1982) (reversing lower court judgment and directing lower court to enter judgment for plaintiffs on claim of "fraud perpetrated upon them by the corporate defendants . . . through the individual defendants," based in part on finding that "the marketing plan . . . did definitely encourage and indeed require . . . an individual to *recruit, recruit, recruit, in order to achieve the income levels promised.*").

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