

July 10, 2019

## VIA EMAIL AND OVERNIGHT MAIL

Attention: Allegations of Regulatory Misconduct Branch Office of Compliance Center for Devices and Radiological Health Food and Drug Administration WO Bldg. 66 RM 3523 10903 New Hampshire Ave Silver Spring, MD 20993 CDRHDeviceAllegations@fda.hhs.gov

Re: Snow Teeth Whitening's Improper Use of FDA logo

Dear Sir or Madam:

We write on behalf of Truth in Advertising, Inc. ("TINA.org") to inform you of Snow Teeth Whitening's improper use of an FDA logo in violation of the FDA's Logo Policy.<sup>1</sup> Specifically, the Arizona-based dental cosmetics company<sup>2</sup> prominently features an FDA logo in its marketing materials, including its product packaging, website, and social media platforms<sup>3</sup> despite the FDA's ban against the use of the logo in private sector materials, sending the false and misleading message that the FDA "favors or endorses" Snow Teeth Whitening products.<sup>4</sup>





In addition, the company falsely claims its teeth whitening products are FDA-approved.<sup>6</sup>

https://www.trysnow.com/



Accordingly, TINA.org urges the FDA to commence an investigation into Snow Teeth Whitening's improper use of its FDA logo and take appropriate enforcement action. If you have any questions, please do not hesitate to contact us.

Sincerely,

Laura Smith, Esq. Legal Director Truth in Advertising, Inc.

Cc: Snow Teeth Whitening

Bonnie Patten, Esq. Executive Director Truth in Advertising, Inc.

<sup>1</sup> <u>https://www.fda.gov/about-fda/website-policies/fda-logo-policy</u>.

<sup>2</sup> The company also goes by the names Snow Whitening, Inc., Snow Bio Labs, and Snow® and is owned by Foresold LLC, also an Arizona company.

<sup>3</sup> <u>https://www.trysnow.com; https://www.instagram.com/snowteethwhitening/;</u> <u>https://www.facebook.com/snowteethwhitening/; https://twitter.com/snowteethwhiten?lang=en.</u>

<sup>4</sup> TINA.org contacted Snow Teeth Whitening regarding this issue on July 2, 2019 in connection with a TINA.org article, "What's the FDA's Logo Doing on the Snow Teeth Whitening Kit?", <u>https://www.truthinadvertising.org/snow-teeth-whitening-fda-logo/</u>.

In response, Snow informed TINA.org that:

We are registered and approved on the FDA website. You can see below is the screenshot of our holding company, Foresold, LLC owns these certifications.

i https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfRL/rl.cfm 🛧 🙎 🛉 🕥 🧰 🔤									
	I.S. Department of Health & Human Services							a A <b>A</b>	
	FDA U.S. FOOD & DRUG Administration						Follow FDA   En Español SEARCH		
	Home Food Drugs Medical Devices Radiation		Radiation-Em	itting Products	Vaccines, Blood & Biologics	Animal & Veterinary	Cosmetics	Tobacco Products	
Establishment Registration & Device Listing								New Search	
	Establishment Name		<b>♦</b> Regist		gistration Number	Current Registration Yr			
		FORESOLD LLC	AZ/USA		3014491235	201	19		
	<ul> <li>Heat Source For Bleaching Teeth - LIGHT SOURCE FOR BLEACHING TEETH (Teeth Whitening Light, Teeth Whitening LED Light, Smart Teeth Whitening Device: Smart Teeth Whitening Light, Teeth Whitening Accelerator. Teeth Whitening Mouth Tray LED Light; Teeth Whitening, Mouth Tray, Light)</li> </ul>						/Relabeler		
	<ul> <li>Eraser, Dental Stain - Teeth Whitening GEL, Teeth Whitening Home Kit, Teeth Whitening System): TEETH WHITENING KIT(Regular Strength Serum, Maximum Strength Serum, Desensitizing Serum</li> </ul>					Repackager/Relabeler			

We work with a large consulting firm that has connections across large retailers and regulation agencies -- they did clear us to use the FDA logo. Going into 2020, however, you will not see any FDA logo on our packaging as we are ending our contract with this firm.

We cannot comment further without going into a complete Non-Disclosure.

<sup>5</sup> <u>https://www.instagram.com/p/ByGyn6Lp9rZ/</u>.

<sup>6</sup> In a July 5, 2019 email from A. Hunt at the FDA to J. Bagley at TINA.org, the FDA stated that the Snow Teeth Whitening products are Class I, 510(k) exempt from premarket notification.