



United States of America  
FEDERAL TRADE COMMISSION  
Washington, DC 20580

Division of Advertising Practices

January 18, 2012

Christine H. Miller  
Patterson Belknap, Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, NY 10036

Re: Energy Brands, Inc., File No. 112-3109

Dear Ms. Miller:

The staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your client, Energy Brands, Inc., violated Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52, in connection with its promotion and advertising for Vitaminwater, following a complaint from the National Consumers League. Our inquiry focused on whether Energy Brands possessed adequate substantiation for its expressed or implied claims that drinking Vitaminwater could reduce the likelihood of illness (cold or flu), improve eyesight, or prevent eye disease.

Upon careful review of this matter, including non-public information submitted to the staff, we have determined not to recommend enforcement action at this time. Among the factors we considered were that Energy Brands had permanently discontinued the advertising containing claims that drinking Vitaminwater could reduce the likelihood of illness before being contacted by the FTC, and that Energy Brands is revising its advertising containing claims related to eyesight. In addition, Energy Brands has assured the staff that it will carefully review its claims and substantiation to ensure its future advertising complies with the FTC Act.

Our decision not to pursue enforcement action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may warrant.

Very truly yours,

Mary K. Engle  
Associate Director