[2023110]

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: **Joseph J. Simons, Chairman**
Noah Joshua Phillips
Rohit Chopra
Rebecca Kelly Slaughter
Christine S. Wilson

In the Matter of

MARC CHING,
Individually, and also d/b/a
WHOLE LEAF ORGANICS.

DOCKET NO. 9394

COMPLAINT

The Federal Trade Commission, having reason to believe that Marc Ching, also doing business as Whole Leaf Organics, ("Respondent"), 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 Marc Ching, also doing business as Whole Leaf Organics, has his principal office or place of business at 14900 Magnolia Blvd, #57347, Sherman Oaks, California 91413.

2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed products to consumers, including Thrive, CBD-EX, CBD-RX, and CBD-Max. Thrive, CBD-EX, CBD-RX, and CBD-Max are "Drugs" 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.

Thrive

4. Thrive is sold exclusively through Respondent's website, www.wholeleaforganics.com. Thrive is an ingestible product, sold in capsule form, that consists of vitamin C, echinacea purpurea, ginger, pomegranate, turmeric extract, bilberry extract, citrus bioflavonoid complex, cranberry juice extract, and carrot. The suggested retail price for one bottle of Thrive containing

50 capsules is $36.99 and the recommended dosage, according to the website, is one capsule, three times a day.

5. Respondent has disseminated or has caused to be disseminated advertisements for Thrive, including but not necessarily limited to the attached Exhibit A. This advertisement contains the following statements:

> Containing clinically researched ingredients, Thrive can help make a difference in your life.
>
> Formulated with potent antiviral herbal extracts, Thrive by Whole Leaf Organics is the perfect way to strengthen your immunity against pathogens like, **"COVID-19," THE CORONAVIRUS**.
>
> . . .
>
> Recommended dose for Adults – 1 capsule 3 times a day. Safe for daily short term use, and to combat ailments the flu, colds, bronchial infections, fungal and yeast based issues, as well as the coronavirus.
>
> . . .

(Exhibit A, Whole Leaf Organics website, www.wholeleaforganics.com).

CBD Products

6. CBD-EX, CBD-RX, and CBD-Max are sold primarily through Respondent's website, www.wholeleaforganics.com.

7. CBD-EX is an ingestible product that is sold in capsule form, consisting primarily of a combination of CBD and herbal extracts. The suggested retail price for one bottle of CBD-EX containing 30 capsules is $39.99.

8. Respondent has disseminated or has caused to be disseminated advertisements for CBD-EX, including but not necessarily limited to the attached Exhibits B and E. This advertisement contains the following statements:

A. Expertly crafted. Superior in genius - CBD EX combines the most effective cancer and immune regulating clinically tested components into one simple supplement.

. . .

The most effective innovation in cancer and immune related proactive supplement support in the past ten years. CBD-EX combines the best in cancer fighting elements, into one simple capsule.

. . .

Containing clinically tested ingredients, CBD-EX is a dynamic force in anti inflammation protocols, targeting manipulated cells while working to protect healthy ones. Formulated containing Coriolus Versicolor Mushroom, CBD-EX seeks to inhibit the spread of mutated malignant cells, directly attacking the problem.

(Exhibit B, Whole Leaf Organic's CBD-EX webpage, www.wholeleaforganics.com/cbd-ex).

. . .

B. The manipulation of cells is how cancer spreads and moves through the body. The most effective thing you can do in regards to fighting against cancer, is to control the way it manipulates and cross transfers into other cells.

CBD-EX – Compounded with infrared separated CBD and beta glucan Coriolis Versicolor, our CBD-EX formulation is specifically created to combat cancer and de-manipulate active cells. Infused with Curcumin, our CBD-EX formulation reduces cell inflammation, while at the same time targeting mutated nuclei.

Containing clinically tested cancer proactive ingredients, CBD-EX can be taken in consistent high therapeutic doses.

(Exhibit E, Whole Leaf Organics cancer webpage, www.wholeleaforganics.com/cancer).

9. CBD-RX and CBD-Max are oils consisting primarily of CBD and hemp extract. The suggested retail price for one 30 ml bottle of CBD-RX is $75. The suggested retail price for one 1000 mg bottle of CBD-Max is $125.

10. Respondent has disseminated or has caused to be disseminated advertisements for CBD-RX and CBD-Max oils, including but not necessarily limited to the attached Exhibits C-E. These advertisements contain the following statements:

A. Clinically Tested. Scientifically Balanced.

Whole Leaf Organics CBD-Rx is a practitioner formulated, and clinically tested cannabinoid nutraceutical line. Our formulations have been proven to be effective at reducing inflammation, and minimizing the way cancer cells manipulate neighbor cells – the key factor in being successful when trying to be proactive against disease.

Our prescription strength CBD-Rx products are effective for both therapeutic and maintenance needs. Non psychoactive in nature, our cannabinoid extracts focus

specifically on inflammation reduction, minimizing manipulation of other cells as tumors spread and work to ravage through the body.

(Exhibit C, Whole Leaf Organics' CBD-RX webpage, www.wholeleaforganics.com/cbd-rx).

B. Backed by scientific research and formulation, CBD Max delivers concentrated active CBD for individuals looking for intense therapeutic needs. Filler free, and compounded without any carrier oils – CBD Max it's the ultimate in high intensity immune system and inflammation support.

(Exhibit D, Whole Leaf Organics CBD-Max product webpage, ww.wholeleaforganics.com/cbd-rx).

C. A key characteristic of cancer cells is the division of the nuclei in a process called mitosis. Unlike normal cells, cancer cells divide uncontrollably and in time work to create blood vessels that feed and supply them with additional oxygen, glucose, and hormones. In fighting cancer, it is important to reduce the rate at which cells divide, cut off the supply of food and oxygen.

Years of working with cancer and fighting to reduce internal inflammation, has lead us to formulate a variety of supplements effective at slowing mutated cell division, and reduce the supply of food and oxygen to cancer cells.

. . .

1000mg per ounce, CBD MAX reduces inflammation, and works to inhibit the division of mutated cells.

(Exhibit E, Whole Leaf Organics' Cancer webpage, ww.wholeleaforganics.com/cancer).

11. In November 2019, the Food and Drug Administration ("FDA") sent Respondent a letter warning that Respondent was making unapproved new Drug claims in violation of the Food Drug & Cosmetics Act by claiming that CBD-EX, CBD-RX, and CBD-Max are intended for use in the mitigation, treatment, or prevention of diseases. FDA gave Respondent fifteen days to take corrective action. To date, Respondent has not removed the unapproved Drug claims from the Respondent's website www.wholeleaforganics.com.

Count I
False or Unsubstantiated COVID-19 Claims

12. In connection with the advertising, promotion, offering for sale, or sale of Thrive, including through the means described in Paragraph 5, Respondent has represented, directly or indirectly, expressly or by implication, that Thrive treats, prevents or reduces the risk of COVID-19.

13. The representations set forth in Paragraph 12 are false or misleading, or were not substantiated at the time the representations were made.

Count II
False or Unsubstantiated Cancer Claims

14. In connection with the advertising, promotion, offering for sale, or sale of CBD-EX, CBD-RX, and CBD-Max, including through the means described in Paragraphs 8 and 10, Respondent has represented, directly or indirectly, expressly or by implication, that CBD-EX, CBD-RX, and CBD-Max treat cancer.

15. The representations set forth in Paragraph 14 are false or misleading, or were not substantiated at the time the representations were made.

Count III
Thrive False Establishment Claim

16. In connection with the advertising, promotion, offering for sale, or sale of Thrive, Respondent has represented, directly or indirectly, expressly or by implication, that Thrive is clinically or scientifically proven to treat, prevent, or reduce the risk of COVID-19.

17. In fact, Thrive is not clinically or scientifically proven to treat, prevent, or reduce the risk of COVID-19. Therefore, the representation set forth in Paragraph 16 is false or misleading.

Count IV
CBD False Establishment Claims

18. In connection with the advertising, promotion, offering for sale, or sale of CBD-EX, CBD-RX, and CBD-Max, Respondent has represented, directly or indirectly, expressly or by implication, that CBD-EX, CBD-RX, and CBD-Max are clinically or scientifically proven to treat cancer.

19. In fact, CBD-EX, CBD-RX, and CBD-Max are not clinically or scientifically proven to treat cancer. Therefore, the representations set forth in Paragraph 18 are false or misleading.

Violations of Sections 5 and 12

18. 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 January 7, 2021, at 10:00a.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 apply:

A. "Covered Product" means any Thrive, CBD-EX, CBD-RX, and CBD-Max or any other Drug, Food, or Dietary Supplement.

B. "Dietary Supplement" means:

1. any product labeled as a dietary supplement or otherwise represented as a dietary supplement; or

2. any pill, tablet, capsule, powder, softgel, gelcap, liquid, or other similar form containing one or more ingredients that are a vitamin, mineral, herb or other botanical, amino acid, probiotic, or other dietary substance for use by humans to supplement the diet by increasing the total dietary intake, or a concentrate, metabolite, constituent, extract, or combination of any ingredient described above, that is intended to be ingested, and is not represented to be used as a conventional food or as a sole item of a meal or the diet.

C. "Drug" means: (1) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (3) articles (other than Food) intended to affect the structure or any function of the body of humans or other animals; and (4) articles intended for use as a component of any article specified in (1), (2), or (3); but does not include devices or their components, parts, or accessories.

D. "Essentially equivalent product" means a product that contains the identical ingredients, except for inactive ingredients (e.g., inactive binders, colors, fillers, excipients), in the same form and dosage, and with the same route of administration (e.g., orally, sublingually), as the Covered Product; *provided that* the Covered Product may contain additional ingredients if reliable scientific evidence generally accepted by experts in the field indicates that the amount and combination of additional ingredients are unlikely to impede or inhibit the effectiveness of the ingredients in the essentially equivalent product.

E. “Food” means: (1) any article used for food or drink for humans or other animals; (2) chewing gum; and (3) any article used for components of any such article.

F. “Respondent” means Marc Ching, also doing business as Whole Leaf Organics.

Provisions

I. Prohibited Disease Claims

IT IS ORDERED that Respondent, and Respondent’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, or sale of any Covered Product must not make any representation, expressly or by implication, that such product (1) treats, prevents or reduces the risk of COVID-19; (2) treats cancer; or (3) cures, mitigates, or treats any disease, unless the representation is non-misleading, including that, at the time such representation is made, they possess and rely upon competent and reliable scientific evidence that substantiates that the representation is true. For purposes of this Provision, “competent and reliable scientific evidence” means human clinical testing of the Covered Product or of an Essentially Equivalent Product that is sufficient in quality and quantity, based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. Such testing must (1) be randomized, double-blind, and placebo-controlled; and (2) be conducted by researchers qualified by training and experience to conduct such testing. In addition, all underlying or supporting data and documents generally accepted by experts in the relevant field as relevant to an assessment of such testing as described in the Provision titled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission. Respondent will have the burden of proving that a product satisfies the definition of an Essentially Equivalent Product.

II. Prohibited Health Benefit Claims

IT IS FURTHER ORDERED that Respondent, and Respondent’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, or sale of any Covered Product must not make any representation, other than representations covered under the Provision titled Prohibited Disease Claims, expressly or by implication, about the health benefits, performance, or efficacy of such product, unless the representation is non-misleading, including that, at the time such representation is made, they possess and rely upon competent and reliable scientific evidence that is sufficient in quality and quantity based on standards generally accepted by experts in the relevant disease, condition, or function to which the representation relates, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Provision, “competent and

reliable scientific evidence" means tests, analyses, research, or studies that (1) have been conducted and evaluated in an objective manner by experts in the relevant disease, condition, or function to which the representation relates; (2) that are generally accepted by such experts to yield accurate and reliable results; and (3) that are randomized, double-blind, and placebo-controlled human clinical testing of the Covered Product, or of an Essentially Equivalent Product, when such experts would generally require such human clinical testing to substantiate that the representation is true. In addition, when such tests or studies are human clinical tests or studies, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as described in the Provision of this Order titled Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies must be available for inspection and production to the Commission. Respondent will have the burden of proving that a product satisfies the definition of an Essentially Equivalent Product.

III. Preservation of Records Relating to Competent and Reliable Human Clinical Tests or Studies

IT IS FURTHER ORDERED that, with regard to any human clinical test or study ("test") upon which Respondent relies to substantiate any claim covered by this Order, Respondent must secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test, including:

A. All protocols and protocol amendments, reports, articles, write-ups, or other accounts of the results of the test, and drafts of such documents reviewed by the test sponsor or any other person not employed by the research entity;

B. All documents referring or relating to recruitment; randomization; instructions, including oral instructions, to participants; and participant compliance;

C. Documents sufficient to identify all test participants, including any participants who did not complete the test, and all communications with any participants relating to the test; all raw data collected from participants enrolled in the test, including any participants who did not complete the test; source documents for such data; any data dictionaries; and any case report forms;

D. All documents referring or relating to any statistical analysis of any test data, including any pretest analysis, intent-to-treat analysis, or between-group analysis performed on any test data; and

E. All documents referring or relating to the sponsorship of the test, including all communications and contracts between any sponsor and the test's researchers.

Provided, however, the preceding preservation requirement does not apply to a reliably reported test, unless the test was conducted, controlled, or sponsored, in whole or in part by (1) Respondent; (2) Respondent's officers, agents, representatives, or employees; (3) any other person or entity in active concert or participation with Respondent; (4) any person or entity affiliated with or acting on behalf of Respondent; (5) any supplier of any ingredient contained in

the product at issue to any of the foregoing or to the product's manufacturer; or (6) the supplier or manufacturer of such product.

For purposes of this Provision, "reliably reported test" means a report of the test has been published in a peer-reviewed journal, and such published report provides sufficient information about the test for experts in the relevant field to assess the reliability of the results.

For any test conducted, controlled, or sponsored, in whole or in part, by Respondent, Respondent must establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of any personal information collected from or about participants. These procedures must be documented in writing and must contain administrative, technical, and physical safeguards appropriate to Respondent's size and complexity, the nature and scope of Respondent's activities, and the sensitivity of the personal information collected from or about the participants.

IV. Prohibited Misrepresentations Regarding Tests, Studies, or Other Research

IT IS FURTHER ORDERED that Respondent, and Respondent's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, or sale of any product must not make any misrepresentation, expressly or by implication:

A. About the existence, contents, validity, results, conclusions, or interpretations of any test, study, or other research, including that studies, research, or trials prove that any Covered Product (1) treats, prevents or reduces the risk of COVID-19; or (2) treats cancer; or

B. That any benefit of such product is scientifically or clinically proven or otherwise established.

V. FDA Approved Claims

IT IS FURTHER ORDERED that nothing in this Order prohibits Respondent, or Respondent's officers, agents, employees, and attorneys, or all other persons in active concert or participation with any of them, from:

A. For any Drug, making a representation that is approved in labeling for such Drug under any tentative final or final monograph promulgated by the Food and Drug Administration ("FDA"), or under any new Drug application approved by the FDA; and

B. For any product, making a representation that is specifically authorized in labeling for such product by regulations promulgated by the FDA pursuant to the Nutrition Labeling and Education Act of 1990 or authorized under Sections 303-304 of the Food and Drug Administration Modernization Act of 1997.

VI. Notices to Customers

IT IS FURTHER ORDERED that Respondent must notify customers as follows:

A. Within 30 days after the effective date of this order, Respondent must notify all consumers who purchased Thrive, on or after March 1, 2020 through the effective date of this Order, by mailing or emailing each a notice as shown in Attachment A:

1. The heading of the notice and the subject line for any email must read "Important Notice about Thrive Court Settlement," and the email must be sent to each recipient individually from an address with the wholeleaforganics.com domain.

2. The Whole Leaf Organics name and return address, for any mailing, must appear on the front of the envelope, the customer's name and address must be printed on the front the envelope or be visible through a window in the envelope, and the words "Important Notice about Thrive Court Settlement" must be printed in easily noticed text near the customer's name and address.

3. The notice must not include any other materials or message about Respondent, or otherwise concern his goods or services.

B. Within 30 days after the effective date of this order, Respondent must notify all consumers who purchased CBD-EX, CBD-RX, or CBD-Max, on or after December 1, 2018 through the effective date of this Order, by mailing or emailing each a notice as shown in Attachment B:

1. The heading of the notice and the subject line for any email must read "Important Notice about Whole Leaf Organics Court Settlement," and the email must be sent to each recipient individually from an address with the wholeleaforganics.com domain.

2. The Whole Leaf Organics name and return address, for any mailing, must appear on the front of the envelope, the customer's name and address must be printed on the front the envelope or be visible through a window in the envelope, and the words "Important Notice about Whole Leaf Organics Court Settlement" must be printed in easily noticed text near the customer's name and address.

3. The notice must not include any other materials or message about Respondent, or otherwise concern his goods or services.

VII. Notice to Resellers

IT IS FURTHER ORDERED that within 30 days of the effective date of this Order, Respondent must notify all retailers or resellers by sending each by first-class mail, postage paid and return receipt requested, or by courier service with signature proof of delivery, the notification letter attached as Attachment C. Respondent must include a copy of this Order, but no other document or enclosure.

VIII. Acknowledgments of the Order

IT IS FURTHER ORDERED that Respondent obtain acknowledgments of receipt of this Order:

A. Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 20 years after the issuance date of this Order, Respondent for any business that Respondent owns the majority of or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Respondent delivered a copy of this Order, Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

IX. Compliance Reports and Notices

IT IS FURTHER ORDERED that Respondent make timely submissions to the Commission:

A. One year after the issuance date of this Order, Respondent must submit a compliance report, sworn under penalty of perjury, in which Respondent must: (1) identify all his telephone numbers and all his physical, postal, email and Internet addresses, including all residences; (2) identify all his business activities, including any business for which Respondent performs services whether as an employee or otherwise and any entity in which Respondent has any ownership interest; (3) describe in detail Respondent's involvement in each such business activity, including title, role, responsibilities, participation, authority, control, and any ownership; (4) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission, may use to communicate with Respondent; (5) identify all of Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (6) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, (7) describe in detail whether and how Respondent is in compliance with each Provision of this Order, including a discussion of all of the changes the Respondent made to comply with the Order; and (8) provide a copy of each Acknowledgment of the Order obtained pursuant to this Order, unless previously submitted to the Commission.

B. Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (1) name, including alias or fictitious name, or residence address; or (2) title or role in any business activity, including (a) any business for which such Respondent performs services whether as an employee or otherwise and (b) any entity in which such Respondent has any ownership interest. For each such business activity, also identify its name, physical address, and any Internet address.

C. Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Respondent within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must 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 Marc Ching, individually, and also doing business as Whole Leaf Organics.

X. Recordkeeping

IT IS FURTHER ORDERED that Respondent must create certain records for 20 years after the issuance date of the Order, and retain each such record for 5 years. Specifically, Respondent for any business that Respondent owns a majority of or controls directly or indirectly, must create and retain the following records:

A. Accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;

B. Personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Copies or records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;

E. A copy of each unique advertisement or other marketing material making a representation subject to this Order;

F. For 5 years from the date of the last dissemination of any representation covered by this Order:

1. all materials that were relied upon in making the representation; and

2. all tests, studies, analysis, other research or other such evidence in Respondent's possession, custody, or control that contradicts, qualifies, or otherwise calls 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;

G. For 5 years from the date received, copies of all subpoenas and other communications with law enforcement, if such communication relate to Respondent's compliance with this Order; and

H. For 5 years from the date created or received, all records, whether prepared by or on behalf of Respondent, that demonstrate non-compliance or tend to show any lack of compliance by Respondent with this Order.

XI. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondent's compliance with this Order:

A. Within 10 days of receipt of a written request from a representative of the Commission, Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.

B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with Respondent. Respondent must permit representatives of the Commission to interview anyone affiliated with Respondent who has agreed to such an interview. The interviewee may have counsel present.

C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondent or any individual or entity affiliated with Respondent, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XII. Order Effective Dates

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its publication on the Commission's website (ftc.gov) as a final order. This Order will terminate 20 years from the date of its issuance, 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's application to Respondent that is not named as a defendant in such complaint; and

C. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that 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 22nd day of April, 2020, has issued this Complaint against Respondent.

By the Commission.

April J. Tabor
Acting Secretary

SEAL:

ATTACHMENT A: Notice to Thrive Purchasers

Dear Whole Leaf Organics Customer:

We're writing because you recently purchased Thrive. We're contacting our customers to tell them:

Contrary to our advertising claims, scientific studies have **not** shown that Thrive is effective for reducing the risk of, preventing, or treating COVID-19. Taking Thrive will not reduce the chances of contracting COVID-19, will not prevent you from contracting COVID-19, and will not treat COVID-19 or its symptoms. It has no known benefit with regard to the novel coronavirus or the disease it causes, COVID-19.

- For information about the novel coronavirus, please visit the Center for Disease Control's information page at cdc.gov/coronavirus/2019-ncov/index.html. Contact your healthcare provider immediately if you believe you or someone in your household may have been exposed to, or may be experiencing symptoms of, COVID-19.

- Before taking any alternative treatment for a disease, talk to your healthcare provider. Talk to your healthcare provider before stopping any treatment they have prescribed. It is important that your healthcare provider is aware of all aspects of your medical treatment. Things that may seem safe – like vitamins and herbal extracts – may interfere with other medicines and cause serious health risks.

ATTACHMENT B: Notice to CBD-EX, CBD-RX, and/or CBD-Max Purchasers

Dear Whole Leaf Organics Customer:

We're writing because you have purchased CBD-EX, CBD-RX, and/or CBD-Max. We're contacting our customers to tell them:

Contrary to our advertising claims, scientific studies have **not** shown that CBD-EX, CBD-RX, and CBD-Max, alone or in combination, are effective in treating cancer or preventing the spread of cancer cells throughout the body. These products have no known benefit with regard to cancer. Furthermore, taking CBD-EX, CBD-RX, and/or CBD-Max could interfere with effective treatments for cancer.

- Before taking any alternative treatment for a disease, talk to your healthcare provider.

- Talk to your healthcare provider before stopping any treatment they have prescribed.

- It is important that your healthcare provider is aware of all aspects of your medical treatment. Things that may seem safe – like oil extracts – may interfere with other medicines and cause serious health risks.

ATTACHMENT C

[On Whole Leaf Organics letterhead]

[on envelope]

GOVERNMENT-ORDERED DISCLOSURE

[content of letter, 16-point font]

[Insert Date]

Dear [Recipient]:

We're writing because you may have bought our products Thrive, CBD-EX, CBD-RX, and CBD-Max. The Federal Trade Commissson ("FTC"), the nation's consumer protection agency, has sued us for making deceptive health claims about these products.

Contrary to our advertising claims, scientific studies have **not** shown that Thrive is effective for reducing the risk of, preventing, or treating COVID-19.

Contrary to our advertising claims, scientific studies have **not** shown that CBD-EX, CBD-RX, and CBD-Max, alone or in combination, are effective in treating cancer or preventing the spread of cancer cells throughout the body. These products have no known benefit with regard to cancer. Furthermore, taking CBD-EX, CBD-RX, and/or CBD-Max could interfere with effective treatments for cancer.

The enclosed order requires us to stop claiming that 1) Thrive is effective for reducing the risk of, preventing, or treating COVID-19; and 2) CBD-EX, CBD-RX, and CBD-Max, alone or in combination, are effective in treating cancer or preventing the spread of cancer cells throughout the body. The order also requires us to tell our customers about the FTC's lawsuit.

Learn more about the FTC's lawsuit at [URL].

Sincerely,

[Whole Leaf Organics signatory]

Enclosure [Enclosed Order]