



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Chair

**Statement of Chair Lina M. Khan
In the Matter of Smoke Away
Commission File No. X050064**

June 29, 2023

Five years ago, Congress armed the FTC with a new tool—OARFPA—to challenge unfair or deceptive practices related to substance use disorder treatment services. Today’s action against the marketers of Smoke Away and its owner reflects the agency’s deep commitment to enforcing this law vigorously—holding accountable all responsible parties, vindicating Congress’s efforts to combat a wide range of unlawful practices, and seeking strong relief that provides both specific and general deterrence.

The order announced today binds not only the marketers of Smoke Away but also its owner, Michael Connors. This case continues this agency’s emphasis on holding individuals accountable when appropriate, as seen both in our consumer protection work¹ and our competition work.² This is our third action under OARFPA—the first was announced last year—and other market participants should take note that each action has named individual defendants.

Today’s lawsuit also recognizes Congress’s broad aims in arming the FTC with this authority. OARFPA prohibits any unfair or deceptive practices with respect to substance use disorder treatment products or services, and our complaint makes clear that we are not looking only at baseless treatment claims but also at related practices that can exploit consumers’ health struggles. Here, for the first time, we’ve alleged that it was illegal under OARFPA to use paid actors to pose as Smoke Away users in marketing these products. Dialing up accountability for deceptive review practices has been a major priority for this Commission,³ and we will continue to use every tool we have—now including OARFPA—to challenge illegal practices.

¹ For example, in the Benefytt matter, the Commission secured permanent industry bans on two executives in addition to a \$100 million monetary judgment. Press Release, Fed. Trade Comm’n, FTC Action Against Benefytt Results in \$100 Million in Refunds for Consumers Tricked Into Sham Health Plans and Charged Exorbitant Junk Fees (Aug. 8, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-action-against-benefytt-results-100-million-refunds-consumers-tricked-sham-health-plans-charged>. In addition, last year’s action against Drizly not only named the CEO but also bound him even if he leaves the company. Press Release, FTC Takes Action Against Drizly and its CEO James Cory Rellas for Security Failures That Exposed Data of 2.5 Million Consumers (Oct. 24, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/10/ftc-takes-action-against-drizly-its-ceo-james-cory-rellas-security-failures-exposed-data-25-million>.

² See Press Release, Fed. Trade Comm’n, Statement of Chair Lina M. Khan on the Ruling by Judge Denise L. Cote Federal Trade Commission et al. v. Vyera Pharmaceuticals, LLC et al. (Jan. 14, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/01/statement-chair-lina-m-khan-ruling-judge-denise-l-cote-federal-trade-commission-et-al-v-vyera>.

³ See, e.g., Press Release, Fed. Trade Comm’n, Fashion Nova Will Pay \$4.2 Million as Part of Settlement of FTC Allegations It Blocked Negative Reviews of Products (Jan. 25, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/01/fashion-nova-will-pay-42-million-part-settlement-ftc-allegations-it-blocked-negative-reviews>; Press Release, Fed. Trade Comm’n, FTC Approves Final Order Against The Bountiful Company in First Case Alleging Hijacking of Online Product Reviews (Apr. 10, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-approves-final-order-against-bountiful-company-first-case-alleging-hijacking-online-product>; Press Release, Fed. Trade Comm’n, Vision Path, Inc., Online Seller of Hubble Lenses, Settles Charges It Violated

Finally, the strong relief secured in this action should serve as a powerful deterrent against similarly exploitative conduct. Today's order includes an unsuspended monetary judgment against the Defendants not only for full redress, but also for civil penalties—a remedy available thanks to our close work with the Department of Justice. The settlement also contains an admission to the Complaint allegations because Connors is a recidivist. Those who believe they can exploit consumers' addiction struggles with impunity should take note of the relief obtained here.

Vigorously enforcing OARFPA has been a major priority for this Commission, and I am grateful to our team in the Division of Advertising Practices for securing the strong results in this matter, as well as to the Department of Justice for its ongoing partnership in combatting addiction-related abuse.
