



December 18, 2001

Dallas District  
4040 North Central Expressway  
Dallas, Texas 75204-3145

**Ref: 2002-DAL-WL-08**

**WARNING LETTER**

**CERTIFIED MAIL  
RETURNED RECEIPT REQUESTED**

Mr. Douglass A Witters, Esq.  
Pollard & Albertson  
Michigan Trading Post Inc.  
38505 N. Woodward Avenue, Suite 2300  
Bloomfield Hills, MI 48304

Dear Mr. Witters:

This letter is in reference to your firm's marketing and distribution of NexCite dietary supplement. Labeling for this product causes it to be a misbranded food [section 403 of the Federal Food Drug, and Cosmetic Act (the Act)]. Labeling is not limited to the immediate product containers but includes all promotional literature, distributed with your product and any Internet promotions of your product.

Objectionable labeling for NexCite dietary supplement includes the following:

1. The product is misbranded under section 403(q)(5)(F) of the Act and 21 CFR 101.36 because it bears nutrition labeling that does not include all dietary ingredients (i.e., caffeine) in the supplement facts nutrition panel. It also declares dietary ingredients (i.e., caffeine) outside of the supplements facts panel.
2. The product is misbranded under section 403(s)(2)(B) because it is not labeled in accordance with section 201(ff)(2)(C) of the Act and 21 CFR 101.3(g) in that the statement of identity does not include the term "dietary supplement". Further, the prominence of the term "dietary supplement" does not meet the labeling requirements of 21CFR 101.3(d).
3. The product is misbranded under section 403(i)(2) and 21 CFR 101.4(a)(1) in that it claims to have a fruit taste made from a blend of peaches, raspberry, lemon and passion fruit, but these ingredients are not declared in the ingredient listing of the product.
4. The product is misbranded under section 403(r)(1)(A) in that it bears the unauthorized nutrient content claim "with caffeine".

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Pollard & Albertson, P.C.  
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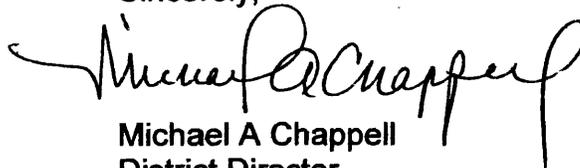
This letter is not intended to be an all-inclusive review of all labeling and products your firm may market. It is your responsibility to ensure that all products marketed by your firm are in compliance with the Act and its implementing regulations.

We request that you take prompt action to correct these violations. Failure to promptly correct these violations may result in enforcement action being initiated by the Food and Drug Administration without further notice. The Federal Food, Drug and Cosmetic Act provides for the seizure of illegal products and for injunction against the manufacturer and/or distributor of illegal products.

Please notify this office in writing within fifteen (15) working days of receipt of this letter as to the specific steps you have taken to correct the stated violations, including an explanation of each step being taken to identify and make corrections to assure that similar violations will not recur. If corrective action cannot be completed within 15 working days, state the reason for the delay and the time within which the corrections will be implemented.

Your reply should be sent to the attention of Compliance Officer, Brenda C. Baumert at the above letterhead address.

Sincerely,



Michael A Chappell  
District Director

cc:

