

## **WARNING LETTER**

President/Owner  
Better-Bodies  
15092 101<sup>st</sup> Road  
Winfield, Kansas 67156

Ref: 02-HFD-312-10

Dear Sir/Madam:

This letter is written in reference to your firm's marketing of the product Adipokinetix, which contains norephedrine HCl. Statements found on your Internet web site, <http://www.better-bodies.com>, indicate that this product is intended to "burn" fat and function as an aphrodisiac. Statements found on the product label indicate that this product is intended to "burn" fat and is thermogenic.

Although your web site represents this product as a dietary supplement, for example by reference to the product as "...my absolute favorite supplement..." in the web site article "The Right Stuff", it cannot be so considered because the norephedrine HCl used in the product appears to be a synthetic compound that is not derived from any botanical source. Synthetic norephedrine HCl is not plant derived and cannot, therefore, be considered a constituent or extract of a botanical source. Consequently, FDA has determined that synthetic ephedrine alkaloids are not "dietary ingredients" as defined in the Federal Food, Drug and Cosmetic Act [the Act, Section 201 (ff)(1)]. Therefore, products containing synthetic ephedrine alkaloids do not fall under the dietary supplement regulatory scheme.

Based on its intended uses, to affect the structure or function of the body, this product is a drug within the meaning of Section 201(g) of the Act. Such products are considered drugs when their intended use is established by structure/function claims, such as those appear on your web site. Some of the claims on your Internet web site, <http://www.better-bodies.com>, from which this product may be ordered, state, for example, "...Adipokinetix...the most potent fat burner in the industry..." and "...drastically increase libido...". The product's label bears claims that it is a "Fat Burner" and "...thermogenic...".

As a drug, the labeling claims made for this product subject it to the requirements for new drugs [Section 201(p) of the Act] because there is no evidence that this product is generally recognized as safe and effective for its claimed uses. Under Section 505(a) of the Act, a "new drug" may not be introduced or delivered for introduction into interstate commerce unless an FDA-approved new drug application (NDA) is in effect for such drug. Because your product is not the subject of an approved NDA, it may not be marketed in the United States and its continued distribution violates Section 505 of the Act.

This letter is not intended to be an all-inclusive review of your Internet web site nor all labeling and products your firm markets. The violation of the Act described above is not intended to be an all-inclusive list of violations concerning your firm and its products. It is your responsibility to ensure that all products marketed by your firm, including other synthetic ephedrine alkaloid products, 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 violations may result in enforcement action being initiated by the FDA without further notice. The Act provides for the seizure of illegal products and for injunction against the manufacturer and/or distributor of illegal products.

Please notify this office within fifteen (15) working days of receipt of this letter as to the specific steps you have taken to correct the stated violations. You should also include 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 Vesna V. Stanoyevitch, Compliance Officer, at the U.S. Food and Drug Administration, Center for Drug Evaluation and Research, Office of Compliance (HFD-310), Metropark North I, 7520 Standish Place, Rockville, MD 20855.

Sincerely yours,

David J. Horowitz, Esq.  
Acting Director  
Office of Compliance  
Center for Drug Evaluation and Research  
Food and Drug Administration