



JULY 14, 2005

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Abkit, Inc.  
61 Broadway, Suite 1310  
New York, NY 10006

Ref. No. CL-05-HFS-810-151

To Whom It May Concern:

This is to advise you that the Food and Drug Administration (FDA) has reviewed your web sites at the Internet addresses <http://www.abkit.com>, <http://www.alphabetic.com>, <http://www.lichtwer.com>, and <http://www.natureworks.com> and has determined that the products alpha betic®, Kwai® Garlic Supplement, Kwai® Heart Fit™ Garlic, Kwai® Every Day, and Flu and Cold Times® are promoted for conditions that cause these products to be drugs under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) [21 U.S.C. § 321(g)(1)]. The therapeutic claims on your web site establish that these products are drugs because they are intended for use in the cure, mitigation, treatment, or prevention of disease. The marketing of the products with these claims violates the Act.

Examples of some of the claims observed on your web site include:

**alpha betic®**

“alpha betic® is the multi-vitamin/mineral supplement designed by doctors For People With Diabetes.”

**Kwai® Garlic Supplement, Kwai® Heart Fit™ Garlic, Kwai® Every Day**

“Kwai Garlic can prevent and reverse the build up of plaque in the arteries and thereby protect the arteries from hardening ....”

“[A]n average cholesterol decrease of 10 - 15%! Other studies using Kwai support cholesterol decreases of up to 25%.”

“[G]arlic has been used for its antimicrobial properties for ailments such as colds and infections, and recent clinical research ... has begun to confirm garlic's ability to kill all sorts of bacteria, fungi, viruses and yeast.”

**Flu and Cold Times®**

“For Relief From Flu & Cold Symptoms”

“[F]or temporary relief of fever chills, post nasal drip, head and chest congestion, minor sore throat pain, cough, body aches, pains and soreness associated with cold and flu.”

In addition, the name “Flu and Cold Times®” also establishes that this product is intended for use in the cure, mitigation, treatment, or prevention of disease because it implies that the product is useful in treating flu and cold symptoms.

Furthermore, your products are not generally recognized as safe and effective for the above referenced conditions and therefore, these products are also “new drugs” under section 201(p) of the Act [21 U.S.C. § 321(p)]. New drugs may not be legally marketed in the U.S. without prior approval from FDA as described in section 505(a) of the Act [21 U.S.C. § 355(a)]. FDA approves new drugs on the basis of scientific data submitted by a drug sponsor to demonstrate that the drugs are safe and effective.

FDA is aware that Internet distributors may not know that the products they offer are regulated as drugs or that these drugs are not in compliance with the law. Many of these products may be legally marketed as dietary supplements if claims about diagnosis, cure, mitigation, treatment, or prevention are removed from the promotional materials and the products otherwise comply with all applicable provisions of the Act and FDA regulations.

Under the Act, as amended by the Dietary Supplement Health and Education Act, dietary supplements may be legally marketed with truthful and non-misleading claims to affect the structure or function of the body (structure/function claims), if certain requirements are met. However, claims that dietary supplements are intended to prevent, diagnose, mitigate, treat, or cure disease (disease claims), excepting health claims authorized for use by FDA, cause the products to be drugs. The intended use of a product may be established through product labels and labeling, catalogs, brochures, audio and videotapes, Internet sites, or other circumstances surrounding the distribution of the product. FDA has published a final rule intended to clarify the distinction between structure/function claims and disease claims. This document is available on the Internet at <http://vm.cfsan.fda.gov/~lrd/fr000106.html> (codified at 21 C.F.R. § 101.93(g)).

In addition, only products that are intended for ingestion may be lawfully marketed as dietary supplements. Topical products and products intended to enter the body directly through the skin or mucosal tissues, such as transdermal or sublingual products, are not dietary supplements. For these products, both disease and structure/function claims may cause them to be new drugs.

Certain over-the-counter drugs are not new drugs and may be legally marketed without prior approval from FDA. Additional information is available in Title 21 of the Code of Federal Regulations (21 C.F.R.) Parts 310 and 330-358, which contain FDA's regulations on over-the-counter drugs.

This letter is not intended to be an all-inclusive review of your web site and products your firm markets. It is your responsibility to ensure that all products marketed by your firm comply with the Act and its implementing regulations.

Page 3 - Abkit, Inc.

If you need additional information or have questions concerning any products distributed through your web site, please contact FDA. You may reach FDA electronically (e-mail) at [Kenneth.Taylor@CFSSAN.FDA.GOV](mailto:Kenneth.Taylor@CFSSAN.FDA.GOV), or you may respond in writing to Kenneth M. P. Taylor, Ph.D., Chemist, Food and Drug Administration, Division of Dietary Supplement Programs, 5100 Paint Branch Parkway, College Park, Maryland 20740-3835. If you have any questions concerning this letter, please contact Dr. Taylor at (301) 436-1439.

Sincerely,

/s/

Susan J. Walker, M.D.  
Director  
Division of Dietary Supplement Programs  
Office of Nutritional Products, Labeling  
and Dietary Supplements  
Center for Food Safety  
And Applied Nutrition