



## **Herbalife Response prompts Rejoinder from Law Offices Of Christopher E. Grell, reports Fraud Discovery Institute**

*Grell indicates it appears that Herbalife (NYSE: HLF) places itself above the law at the expense of the consuming public.*

For Immediate Release

SAN DIEGO/EWORLDWIRE/May 20, 2008 --- Herbalife's (NYSE:HLF) response to independent, FDA-registered lab results presented to the public by FDI prompts attorney Christopher Grell to direct the following correspondence to the Fraud Discovery Institute (FDI):

Mr. Barry Minkow  
Fraud Discovery Institute  
9770 Carroll Center Road Suite F  
San Diego, California 92126

Sent Via Fax and Email

Dear Mr. Minkow;

I have read Herbalife's (NYSE:HLF) inadequate response and literal dodging of the issue relating to the recent findings of excessive lead levels in their products and want to address four critical issues.

First, the company did not contest the accuracy of the test results which is itself an admission. They simply insisted that the test results did not mean what the law clearly appears to indicate that they do mean but regardless, the critical fact is there was no disputing the independent, FDA-registered lab results.

Second, Herbalife's (NYSE:HLF) statement reads as follows: It is irresponsible to equate Prop 65, which concerns disclosure, with the safety of our products. Prop 65 is a consumer disclosure and labeling statute requirement that under certain circumstances requires the disclosure of the presence of any of approximately 800 specified chemicals (including lead). However, Prop 65 requires that the citizens of California be warned if a product contains levels of certain chemicals that can cause cancer, birth defects and/or developmental problems. Lead is one such substance. It is not a make-believe hazard. Even the federal government, which has no definitive limits for lead exposure, as well as every other reputable scientist, agrees that lead is not good for you especially if pregnant or a child. In California, the legislature passed a law to protect its citizens and anyone who visits California. This law requires that a manufacturer of a food and/or dietary supplement which contains amounts of lead that are in excess of what California has determined to be safe, warn the consumer of the risk of cancer, birth defects and/or developmental injuries and harm. What is the purpose of a Prop 65 warning if not to tell people of the potential risk of harm that they expose themselves to by using a product containing what the government has determined to be an excessive level of exposure to a harmful chemical? An informed decision requires information. Prop 65 was intended by the legislature to give the public that information so that an informed decision could be made before someone uses a product or enters an environment that exposes themselves to a danger.

Given the legislative intent behind Prop 65 and the objectives that this law was designed to effectuate, how can Herbalife claim, in good faith, that it is irresponsible for the Fraud Discovery Institute to urge that a company, especially one who is in the Health Industry, comply with the law and give the public the opportunity to choose by telling them that their products contain lead? If any one is irresponsible, it is the company or person who denies their responsibility under the law and needlessly puts people at the risk in the interest of profit over safety.

Third, the company fails to address how they are exempt from and therefore not responsible for violating a specific California law that requires that any nutritional (weight loss) product(s) that exceed more than a

specified amount of lead (.5 micrograms per day) must have a warning label. Instead they appeal to a non specific federal guideline that has no objective standard but merely suggests certain lead levels per day in contrast to the very specific California Proposition 65. This distinction between suggested federal levels of lead and the absolute mandated law in California is not lost by Congressman Waxman in his letter to the US Food and Drug Administration where he states: There is no uniform standard for permissible amounts of lead in food or dietary supplements. Instead, there are multiple relevant standards: (1) informal FDA guidelines for "tolerable levels" of daily dietary lead intake; (2) FDA guidance suggesting specific limits for lead in certain foods such as shellfish and candy; (3) a California law requiring a warning on any food or supplement containing lead above a certain amount; and (4) a widely accepted public health standard recognizing that all exposures to lead involve some level of risk and that, at least for children, there may be no safe level of exposure. In short, the State of California law wins out over the mere guidelines and suggestions of the federal government that were never intended to undermine the intent of the California State law.

Fourth, since Herbalife opened the federal guideline door, they must deal with other relevant issues like lead levels for pregnant women and children. Although the Herbalife official web site makes it clear that pregnant women should not use weight loss products, they say nothing about the danger of children and pregnant women avoiding their nutritional products. In fact, even a cursory observation of various Herbalife supervisor and distributor web sites repeatedly encourage the importance of pregnant women taking Herbalife nutritional (not weight loss) products. The below six example web sites could be readily multiplied. However, the critical issue is the company cannot claim ignorance of independent contractors and what these contractors advertise about Herbalife products on their web sites because had their products followed California law (and not Federal suggestions) no distributor or associate could harm pregnant women because warning labels for lead (and not just weight loss) would be on the package. Instead, pregnant women are susceptible to danger as the can be seen below:

1. <http://herbalife-wellness.blogspot.com/2006/10/dr-jamie-mcmanus-on-herbalife.html>

"It is not advisable for pregnant women to lose weight during pregnancy, but our nutrition products are certainly safe for use during pregnancy. The notice on the Formula 1 label concerning pregnant and lactating women consulting their physicians before using the products is a result of a concern that pregnant women not be on a weight loss program during pregnancy."

2. <http://herbalife-testimonials.webs.com/pregnancy.htm>

Pregnancy Weight Gain Program:

Formula 1 " 1 to 3 times a day, as snacks

Formula 2 - 1 tablet, 3 times a day w/ meals

Formula 3 - 3 tablets, 3 times a day - you need all the absorption you can get!

\* - 1 tablet, 3 times a day - need protein absorption when pregnant!

(\*\*Herbal Complex) - 1 to 2 tablets, 3 times a day - a life saver that last month of pregnancy when the water weight tries to bloat you down!

LipoBond - 1 to 2 tablets, 3 times a day - no more pregnancy constipation!!!

Herbalifeline - 3 tablets, 3 times a day - Omega3 fatty acids make that little babys brain grow smart!!!

Joint Support - 1 to 2 tablets, 3 times a day -no more back, hip, knee, or ankle aches from carrying all that belly weight!

Herbal Aloe Juice - AT LEAST 4oz, 2 to 3 times a day - no more pregnancy indigestion, constipation, or nausea!

RoseOx - 1 tablet, 2 times a day

(\*\*Rose Ox) - 1 tablet, 3 times a day - I had real bad allergies and took the (\*\*Rose Ox) and RoseOx so that I wouldn't have to take any medicine - it worked!"

3. <http://protein-diet.blogspot.com/>

"Note: You can safely use the Herbalife products as nutritional supplements while pregnant and breastfeeding, but it's not advised that you take the products to actively try and lose weight. When trying to lose weight on the products, we would normally advise you to replace two meals with our nutritious meal replacement shake. While pregnant or breastfeeding you can replace one meal with the shake or have the shake as a health drink snack to enhance your health."

4. <http://akmal-herbalife.blogspot.com/2007/05/nutritions-for-pregnant-breastfeeding.html>

"Herbalife is a wellness and nutrition product, which provides nutrition for the body as well as assisting in

weight management program, be it weight gain, weight loss, or fitness. Which is why it is suitable for everybody; this includes children, adults, senior citizens, pregnant mothers, etc. It is not so much about weight loss, but about overall health."

"Now, mothers-to-be are advised to take Herbalife shake at least once a day (during breakfast) to absorb all the nutrients and minerals for the baby. People often ask me whether Herbalife has effects on the new-born baby. Well, of course it has! It makes the baby healthier!"

Hence, if you are a mother-to-be, do not be afraid to try Herbalife. It is a lot better than taking all of those multivitamins in those colorful bottles. I know a few people personally, who have consumed Herbalife during their pregnancy period and have had the best pregnancy experience ever with minimal morning sickness (some none at all), unbelievable energy boost and beautiful healthy babies too! I hope this clears your curiosity."

5. <http://forum.pampers.co.za/viewtopic.php?p=127150&sid=bfd17cfabed1300545eb97594627f486>

"Hi There, I started using Herbalife products in November 1997 - and have been using them daily ever since! As a matter of fact due to my fantastic results I found myself in business, and have been working from home for the last 10 years.

Herbalife products are 100% safe to use before, during and after pregnancy"

6. <http://www.peteshealth.co.uk/herbalife-uk.html>

"If you are pregnant it isn't a good idea to lose weight unless your doctor advises it but you can still use herbalife products for extra nutrition during and after pregnancy."

Since the company has not denied the accuracy of the test results and since multiple web sites exist encouraging both pregnant women and children to consume these products in a cumulative fashion, the very point of your lab tests and subsequent danger to the health of these vulnerable people is established.

In summary, this "health" company places itself above the law at the expense of the consuming public.

Very Truly Yours,  
Christopher Grell, Esq.  
Law Offices Of Christopher E. Grell  
The Broadlake Plaza, 360 22nd Street, Suite 320  
Oakland, California 94612  
Attorneys At Law specializing in ephedra litigation, asbestos, dietary supplements, and PPA

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**CONTACT:**

Barry Minkow  
FDI  
9747 Businesspark Ave #218  
San Diego, CA 92131  
PHONE. 888-300-8307

Chris Roslan  
DRC Public Relations  
PHONE. (212) 966-4600

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