



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

Division of Advertising Practices

October 24, 2017

Edward F. Glynn, Jr., Esq.  
Locke Lord  
701 8th Street NW, Suite 700  
Washington, D.C. 20001  
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Re: Sevo Nutraceuticals, Inc., FTC Matter No. 162-3175

Dear Mr. Glynn:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into the advertising of Perceptiv by your client, Sevo Nutraceuticals, for possible violations of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45, 52. Perceptiv is a dietary supplement containing Vitamin E, Folic Acid, Vitamin B12, S-Adenosyl Methionine (SAME), N-Acetyl L-Cysteine (NAC), and Acetyl L-Carnitine (ALCAR) that was marketed to improve cognitive performance in healthy adults and prevent normal, age-related cognitive decline.

Section 5 of the FTC Act requires that advertising claims be truthful and non-misleading, and Section 12 prohibits false advertisements for foods, drugs, devices, services, or cosmetics. Generally, health benefit claims in advertising are deceptive if the advertiser does not possess competent and reliable scientific evidence substantiating the claims prior to their dissemination. *See, e.g., FTC v. Direct Marketing Concepts, Inc.*, 569 F. Supp. 2d 285, 298-300 (D. Mass. 2008), *aff'd*, 624 F.3d 1 (1st Cir. 2010); *see also* DIETARY SUPPLEMENTS: AN ADVERTISING GUIDE FOR INDUSTRY, at 3 (health benefit claims for dietary supplements must be supported by competent and reliable scientific evidence), *available at* <https://www.ftc.gov/tips-advice/business-center/guidance/dietary-supplements-advertising-guide-industry>. We were concerned that the cognition-related claims for Perceptiv were not adequately substantiated. Specifically, the claims relied on limited, preliminary evidence that did not rise to the level needed to support the claims being made in Perceptiv advertising.

Upon careful review of this matter, including non-public information submitted to the staff, we have determined not to recommend enforcement action at this time. In coming to this conclusion, we considered a number of factors, including that the company has ceased operations, and resource allocation and enforcement priorities.

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This action is not to be construed as a determination that a violation of law did not occur, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may warrant.

Very truly yours,

A handwritten signature in cursive script that reads "Mary K. Engle". The signature is written in black ink and is positioned above the printed name and title.

Mary K. Engle  
Associate Director