

GNC pays \$2.25 million in DOJ settlement over misbranded supplement

December 7, 2016 11:37 PM

By Daniel Moore / Pittsburgh Post-Gazette

GNC Holdings Inc. has agreed to pay \$2.25 million and take steps to ensure potentially unlawful ingredients and supplements are not included in its products, the U.S. Department of Justice announced Wednesday.

The announcement follows a federal investigation into how a GNC vendor's misbranded dietary supplement reached the Pittsburgh health and nutrition retailer's shelves in 2013.

The investigation found "GNC's practices related to ensuring the legality of products on its shelves were lacking" when it sold Oxy Elite Pro Advanced Formula.

The supplement was a product of Dallas-based USP Labs, which was indicted in November 2015 and is awaiting trial for allegedly conspiring to import ingredients from China using false labeling and false documentation. GNC suspended its sale of all USP Lab products shortly following announcement of the indictment.

USP, according to federal investigators, told some of its retailers and wholesalers that it used natural plant extracts in some of its products when it was actually using synthetic stimulants manufactured in a Chinese chemical factory.

The Justice Department concluded that GNC had "relied on the representations and written guarantees of USP Lab" that its product was lawfully represented and did not conduct additional testing to confirm USP Lab's representations.

Benjamin C. Mizer, head of the Justice Department's civil division, called the resolution a "significant step forward in reforming an industry rife with alarming practices," adding that "companies like GNC need to do more to ensure that they are not selling products containing questionable and untested ingredients."

A GNC release noted, "The DOJ and FDA also concluded that GNC was unaware of any information that the products manufactured by USP Labs violated the FDCA [Food, Drug and Cosmetic Act], while recognizing GNC's representation that it did not knowingly sell products that violated the FDCA."

The GNC release further stated that the company “will take a number of actions to broaden industrywide knowledge of prohibited ingredients and improve compliance by vendors of third party products.”

That call to action echoes a similar initiative by former GNC CEO Mike Archbold a year ago following allegations in February 2015 by the New York attorney general that ingredient labels on some products were inaccurate and, eight months later, an accusation by Oregon’s attorney general that some GNC products included unapproved drugs.

In response to what he termed “meritless” allegations, Mr. Archbold said the company was organizing a coalition of more than 40 companies that would track all ingredients from seed-to-shelf. He said the group also would push independent third-party inspections and facility certifications.

GNC shares closed at \$13.98 on Wednesday, down 22 cents.

Daniel Moore: dmoore@post-gazette.com or 412-263-2743; Steve Twedt: stwedt@post-gazette.com or 412-263-1963.

First Published December 7, 2016 1:56 PM