



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Division of Advertising Practices

Mary K. Engle
Associate Director

February 24, 2015

Scott Barth
Vapex LLC
6543 Canyon Cove Place
Holladay, UT 84124

Re: Vapex, FTC File No. 142-3238

Dear Mr. Barth:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices conducted an investigation into whether Vapex, LLC ("Vapex") violated Sections 5 and 12 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45, 52, in connection with the advertising, marketing, and sale of Vapex electronic cigarettes ("e-cigarettes"). Our inquiry focused on whether Vapex: (1) had adequate substantiation for its representations that its e-cigarettes contain no toxic chemicals and will not damage a user's lungs; and (2) enrolled consumers in a continuity program without their consent after they signed up for a free trial of your product.

Sections 5 and 12 of the FTC Act require that health claims in advertising be supported by competent and reliable scientific evidence. More specifically, before disseminating an advertisement, an advertiser must possess evidence substantiating all material claims – both express and implied – that the ad conveys to reasonable consumers. Section 5 also prohibits misrepresentations or deceptive omissions about material terms and conditions of sales offers, including, but not limited to, details about how often consumers' credit or debit cards will be charged, conditions under which consumers will be enrolled in continuity programs, and information about how to cancel trials or memberships and receive refunds.

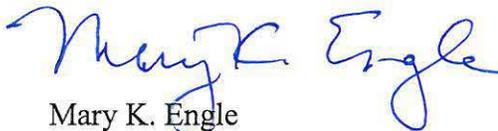
Upon careful review of this matter, we have decided not to recommend enforcement action at this time. Among the factors we considered in reaching this decision is your representation that Vapex is no longer conducting business, and that you are no longer advertising, marketing, or selling e-cigarette products in a business or personal capacity.

Our decision not to pursue enforcement action at this time should not be construed as a determination that a violation did not occur, just as the pendency of an investigation should not

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be construed as a determination that a violation has occurred. The Commission reserves the right to take further action as the public interest may warrant.

Very truly yours,

A handwritten signature in blue ink that reads "Mary K. Engle". The signature is written in a cursive style with a large, stylized "M" and "E".

Mary K. Engle
Associate Director for Advertising Practices