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## Director's Message



### Membership Renewal & IASC Board Meeting Report

I've started wearing my heavier winter gear for riding into work, which means several things: It's going to get even colder (and this is nothing!). The days are going to have less and less daylight and my internal clock is going to be messed up for several weeks thanks to daylight savings time. Usually, things tend to "slow down" a bit this time of year (though I'm not so sure about this year, after having just completed the board meeting and the amount of work that's in front of us now - more to come on that shortly) with the holiday's and suppliers/manufacturers heading into the winter months. And yes, it's time for annual IASC membership renewal.

Now this is where I tell IASC members how important membership is, what the benefits of membership are, and why being an active member of a trade association is vital to your business and how through the association we will continue to improve the aloe vera industry. However, I'm not going to do any more than just that - because if you're reading this, you probably already are a member and hopefully know that everything the IASC does is done in order to protect and ensure you can do what you probably started working in the aloe vera industry for in the first place - to grow your business, provide excellent products, and make more money.

That said, as I mentioned earlier the board met recently in Las Vegas for the 2nd time in 2009, and the agenda was, quite literally, packed. A separate group of special reports on the issues and actions taken by the board are included in this issue of Inside Aloe Online, but I'd like to highlight a few here that speak to why renewing your IASC membership is not only worthwhile, but so crucial for your business this year.

In regards to the IACS Certification Program, by which members and non-members can certify their products and raw materials in order to obtain the IASC Seal, which differentiates their products from others on the market, revisions to the Certification Program standards and policies, as well as publication of the standards for the first time, were high on the list. The board was also informed of the efforts staff and counsel have been undertaking regarding illegal seal usage, with a list of some 20+ companies receiving formal cease & desist letters in 2009 thanks to both staff-driven searches as well as communications from members, consumers and other industry members. These efforts have garnered a strong compliance rate and the IASC is committed to continuing efforts to protect the seal program.

From the Science & Technical committee, the board was informed of the work of the Characterization Working Group, made up of members of the Science & Technical committee, and the work that has been done regarding aloin analysis of finished products in order to defend against the NTP oral-consumption study. A presentation and report from DBA Analytical included information on the

ongoing Risk Assessment work that continues to develop, and is thanks to those members who provided funds via the 2009 Special Assessment of the membership.

The Regulatory Affairs committee presented the board with a draft of the forthcoming AHP quality & compliance standards monograph, which continues to make excellent progress and is also under way thanks to the Special Assessment. The board also adopted as an IASC standard for identification that the presence of beta 1,4 acetylated polymannan (aka acemannan, aloeverose) must be established in aloe vera products. The organization is active in identification of and development/validation of methods of analysis for this purpose.

From Public Relations, the board was informed of the current status of the 2009/2010 Yun-Ho Lee Award, for which 17 submissions were collected. The holding on annual membership meetings in 2010 was decided - with dates forthcoming. PR and outreach efforts were also discussed in regards to the NTP study.

For more detailed information on these items, please read the separate board report articles that provide a more in-depth recap of the primary board topics and actions, and feel free to contact me with any questions.

Finally, thank you in advance for your continued support and membership renewal, even more so, for your participation and input into the IASC. Without your continued support we cannot continue to undertake tasks like the ones outlined above that serve your businesses needs and allow the industry to flourish.

My best wishes for the 2009 holiday season to everyone, and to a fantastic and prosperous 2010 to come...



Devon Powell  
Executive Director

## IASC Board Report



### Report from the November IASC Board Meeting

Devon Powell, Executive Director

The IASC Board of Directors met on Nov. 10, 2009 for the second of two, regularly scheduled meetings for the year. It was noted at the outset of the meeting that many items of relatively high importance to the aloe vera industry and IASC membership were to be undertaken, and in this issue of Inside Aloe Online, several separate reports are being provided to the membership to highlight items likely of the most interest.

#### Financial Status & Special Assessment

The board reviewed and approved the current financial status of the Council and passed a budget for 2010. The 2010 budget included several new additions, including a line item and budgeted funds in regards to the Certification Program and illegal seal usage enforcement. Budgeted amounts were also

included for the holding of an annual meeting or meetings in 2010, and were discussed further by the Public Relations Committee (see the PR committee report summary for more details).

During the report on the current financial status of the Council, the board addressed the non-payment of the Special Assessment by many members, which was levied on the membership by action of the board at the March 2009 meeting. The assessment funds are specifically being used to complete several tasks associated with concerns raised by the National Toxicology Program (NTP) oral consumption study on aloe vera, in which the FDA relayed in a February 2009 meeting with the IASC that the results may indicate carcinogenicity in mice and rats. "We needed additional funds to complete several projects that were identified as urgent, as they were outside the scope of the original 2009 budget, which was established in September 2008," said IASC Board member and Treasurer Tom Brown.

"To answer these concerns, the Council is currently operating on several fronts and engaged in efforts thanks to the funds currently collected by the Special Assessment - but it's not enough," said Devon Powell, IASC Executive Director.

Those efforts include the development of an aloe vera juice monograph to provide quality and compliance standards for the industry, being completed in partnership with the American Herbal Pharmacopeia. The Characterization Working Group was formed and has been actively identifying and analyzing finished products in order to clearly differentiate those finished products currently in commerce from the sample used in the NTP study (which was a non-filtered "whole leaf extract"), and has carried out the analysis of many products for this purpose in conjunction with the analytical laboratory ChromaDex, who has assisted in the development of methods of analysis for aloin content via HPLC for the Council. The Council is also funding a risk assessment in partnership with DBA Analytical (an NSF company) in order to establish dosage limits, risk levels, and includes a risk exposure and hazard analysis.

As discussed at the board meeting, it is imperative that the Council address both the FDA concerns relayed at the February 2009 meeting as well as the potential consumer backlash from the publication of a negative NTP study outcome. Though clear that the general public is unlikely to be directly affected by the release of the study itself, and though the media may pick it up and cause some issues, these items are seen as the lesser evil. The major concern is, as the NTP is considered by the state of California to be an "authoritative body," should the study release with a conclusion of carcinogenicity, the substance aloe vera could and likely would automatically be added to the California Proposition 65 list of substances shown to cause cancer. Prop. 65 requires warning labels on products on the list that state, "This product has been shown to cause cancer," to be applied to all products for sale in California.

"The addition of warning labels to aloe vera products in California would most certainly capture the attention of the media, likely produce a great deal of costly litigation for the industry, possibly undermine global markets and encourage regulators to consider taking additional action, potentially causing great damage to the trade as a whole," said Powell. "That's the challenge we've undertaken - and why it's so important we have enough funding to complete all of these tasks, as well as newly identified ones from the recent board meeting."

The IASC will have an opportunity to present its findings during the NTP Technical Review Committee (TRC) meeting, a date for which has not been set but is anticipated to be scheduled for the first half of 2010. The study results are currently under statistical review and no data will be released until the TRC meeting. "We are actively monitoring the NTP schedule and expect to have all our data ready to present," said Powell. "Several members have asked if we can't simply have the study quashed, since the material used was not what is used in commerce, but that's simply not possible. The NTP has a model for conducting their research and for reporting it, and there is nothing we can do to prevent or allay that process. What we can do is present our side of the story - which is they used an ingredient in the study that the industry as a whole does not market."

The board in their discussions encouraged all members with outstanding Special Assessment balances to remit payment and support the Council in these efforts, encouraged and asked non-IASC members to join and support the Council in this endeavor to protect their business interests, and expressed appreciation and thanks to those who had already done so.

#### **CERTIFICATION PROGRAM - Revisions to & Publication of Program Standards**

"I am extremely excited, proud and pleased with the direction the Council is taking in regards to the IASC Certification Program," said Devon Powell, IASC Executive Director. "The board took action on a variety of items regarding the program, including several notable revisions to the program standards and policies, and agreed to publicize the program's standards in totality, among other items in order to continue to improve the sanctity and notoriety of the seal program to both the industry and consumers. It's an important and momentous step for the Council and the program."

The program revisions included the addition of an aloin standard of 10ppm or less in 0.5% aloe vera solids solution, which was proposed and adopted in order to ensure products meet the IASC standard, which was adopted in March 2009. There was consideration for adjusting the percentage of aloe vera required to be in finished products (currently and still at 15%), but was sent back to committee for further review, with instructions for a recommendation to be provided within 60 days.

A policy on inspections conducted by correspondence (an inspection conducted by paper review based on 3rd party certifications) was instituted, and requires all participants to have at least one on-site audit conducted by an IASC inspector prior to any consideration for review by 3rd party certification. The policy also establishes the only currently approved 3rd party certification to be United States GMP, and outlines the process for requesting additional 3rd party certifications be considered. The board also addressed concerns regarding costs associated with on-site inspections, primarily centered around travel costs to have an inspector come to countries abroad, and instructed staff to investigate options for inspectors in strategic, global locations to potentially both allay these expenses as well as potentially remove correspondence audits entirely. "The committee took this under review and gave it serious consideration prior to the board's review and action," said Powell, "There was clear understanding for the concerns from global participants in regards to associate travel expenses with an on-site audit, and we are going to be working to create cost effective means for participants as well as continue to increase the integrity of the program by ensuring facilities are held to the program's high standards via on-site inspections."

Other items of note were the unanimous approval of the board to publish the program's standards, and a SOP document has been prepared and will be distributed to current program participants as well as published on the IASC website once these new revisions have been made. "This is a fantastic and much needed development. It will allow participants and potential participants as well as consumers to fully understand the parameters and standards finished products and facilities are held to in order to pass certification and obtain the seal," said Powell. The board also passed motions to establish a mission statement and strategic goals for the program, as well as the addition to the 2010 budget for a line item and funds of \$5,000 for illegal seal usage enforcement. The board also passed a motion to instruct staff to investigate the registering of the trademarked seal and language in other, strategic locations in order to provide greater legal protection to and sanctity for the program.

"I think 2010 will be an excellent year for the program", Powell said. "We are making the seal more and more valuable to the industry and consumers, working on strengthening the programs standards, and looking at ways to improve the processes and procedures in order to provide better value to participants, and will continue to do so."

For more information on the certification program, please contact Rosie Ysasi, program coordinator ([rysasi@iasc.org](mailto:rysasi@iasc.org)).

## **ETHICS & GOVERNANCE - Board Adopts New Bylaws**

The board unanimously approved the recommendation of the Bylaws Revision Working Group regarding the adoption of new Bylaws for the organization, which will provide greater governance and structure for the membership. The revision includes improved definitions and processes for nominations and elections of board members, establishes additional non-officer executive committee positions, and term limits for board members, among other items. "This Bylaws revision provides greater structure for the membership, and clearly defines the framework for the governance of the association, outlines board authority and membership rights and responsibilities", said Don Lovelace, Chair of the IASC Ethics Committee.

Devon Powell, IASC Executive Director, agreed, "Though perhaps not as glamorous or outwardly valuable as some of the other projects the IASC is working on, having stronger and more clearly defined Bylaws and underlying governance for the Council will be very beneficial."

The new Bylaws will be published on the IASC website shortly, and members are encouraged to familiarize themselves with the new governing documentation - those with questions are encouraged to contact staff.

## **SCIENCE & TECHNOLOGY - Aloin Database; Risk Assessment; Characterization Working Group & Finished Product Analysis**

The board passed a motion instructing staff to request the membership provide information on aloin content/quantification in finished aloe vera products in order to develop a database of this information. "This database will assist the Council in better understanding the current articles in commerce and their status in regards to aloin content, which will be valuable in establishing workable and effective limits for industry as well as provide insight into how to continue to proceed with the NTP efforts", said Devon Powell, IASC Executive Director.

A direct communication will be sent to the membership outlining the details, and all members are encouraged to provide the requested data as soon as possible.

The board also received a report from DBA Analytical personnel, Casey Coy and Clif McClellan, regarding the aloe vera risk assessment, which that company was contracted to produce for the Council. They indicated they were working diligently on providing useful information for the Council and have estimated a draft would be ready by the end of November, but required greater input on several items, particularly in regards to overall substance characterization information. The board moved to establish regular teleconference meetings with DBA, in which any members interested in participating are invited to do so. A schedule will be created in the coming weeks and a communication provided to the membership with more details.

In regards to the ongoing efforts of the Characterization Working Group and aloin quantification in finished products vs. the NTP sample, which upon analysis confirmed it contained unfiltered concentrations of aloin, Don Lovelace with Lily of the Desert generously offered to provide samples of the majority (some 50+%) of products for sale in the marketplace (via Nielsen rating), as well as fund the analysis of those products for aloin content by ChromaDex.

"Don rightly identified that while we were currently analyzing IASC certified finished products, the FDA may ask about the other widely consumed products in the marketplace", said Powell. "He gets it, and he stepped up. The board and I personally cannot thank Don enough for his generosity and foresight in providing the Council and the industry with this. That said, the industry and other individual companies needs to recognize this effort and consider taking action as well."

The board also moved to instruct staff to inform the membership of the availability of the analysis via ChromaDex, and to encourage members to engage in the testing of their products. Interested

members are welcome to contact staff for more information.

It was also reported that two IASC funded studies, the NMR validation and Bioavailability, were accepted for publication in the Journal of the AOAC International and the Journal of Applied Nutrition, respectively.

#### **REGULATORY AFFAIRS - IASC "Acemannan" Standard for Identity; AHP Monograph; EFSA Guidance re: Risk Assessment & Flavorings**

The Beta 1,4 acetylated polymannan is considered the primary marker compound in aloe vera for identification, and is also regularly called "Acemannan". At the November 10, 2009 meeting, the board moved to establish an IASC standard that for any product to be claimed as aloe vera, the Beta 1,4 acetylated polymannan must be present.

Selection of a method of analysis to validate for use in detecting the presence of the marker compound are currently under way, and the board instructed the committee and staff to provide options and recommendations for potential methods to the Executive Committee within 60 days.

"There are well established standards for this marker in several countries so it is appropriate for the Council to formally adopt this marker for certification", said Ken Jones, IASC President and Chair of the Regulatory Affairs Committee. "We will be looking at methods currently in place in some of those countries that already have established standards for the marker, as well as new, potentially less expensive ones that we are excited to be involved in the development of. By establishing this standard, and providing methods of analysis, we'll be able to assist the industry in reducing adulteration and misbranding."

The board was presented with a draft of the aloe vera juice monograph, currently in development by the American Herbal Pharmacopeia (AHP). "Take note there will be two monographs," said Roy Upton, Executive Director of AHP in his draft presentation comments, "One, the larger AHP information monograph; the other a compliance monograph. The information monograph is meant to be an education and standards setting piece that provides a comprehensive review of what is needed to make an authentic and quality product. The compliance monograph is meant to be a snapshot of what is minimally needed to conform with AHP requirements."

There are also additional efforts currently under way to harmonize with a USP monograph. "We think the IASC should be the ones to set the bar in regards to quality standards for aloe vera juice," said Devon Powell, IASC Executive Director. "We hope this will assist in not only providing solid standards for industry, but also clear up confusion from other pharmacopeias that confuse aloe latex with aloe vera juice." The IASC has already been in contact with the United States Pharmacopeia (USP), who indicated they are pleased to harmonize their aloe vera juice monograph with the AHP monograph.

Standards the board passed for inclusion in the monograph at the Nov. 10 meeting include:

- An aloin standard of 10ppm or less in 0.5% aloe solids solution in finished products, and methods of analysis for both liquids and powdered/concentrated products, developed by ChromaDex
- Species identification via an HPTLC method developed by CAMAG, which currently differentiates between aloe vera and aloe ferox, and is being further developed to hopefully also include aloe arborescens
- Presence of the Beta 1,4 acetylated polymannan and methods of analysis  
Maltodextrin adulteration including methods of analysis for both quantification by percentage and presence, validated by Alkemist Pharmaceuticals, and;
- Molecular weight range from 5,000 - >2,000,000.

"Once this monograph is completed and publically released, those interested in raw materials made to the AHP monograph specifications can both claim, and use these tools and methods to ensure, their

raw materials are of the highest quality standards available," said Powell.

It was also reported that the European Food Safety Authority (EFSA) has published draft guidance regarding conducting risk assessments associated with flavorings. The draft guidance outlines the process for requesting the removal of substances from the community list. In the EU, the 0.1ppm aloin limit for finished products for oral consumption is connected to the EU regulation on flavorings, and the board instructed the committee to investigate further and provide a report on the possibility of getting aloin off of the community list in regards to aloe vera.

#### **PUBLIC RELATIONS - Outreach & PR Efforts re: NTP Study**

Recognizing the potential consumer backlash should the NTP study report carcinogenicity, and the likely addition of aloe vera to the California Proposition 65 list that would preclude the addition of warning labels on aloe vera products, the board authorized the creation of an IASC Executive Summary on the NTP study in order to dispel misinformation. The board also approved and instructed staff to create a request for proposals from PR/crisis management firms in order to "get out ahead" of the potential negative media and promote a positive and accurate messaging strategy for the general public. Chris Clarke, Chair of the IASC PR Committee said, "We need to be proactive and get our message out there now, before the study is released."

"This is likely the most important item that came out of the board meeting", said Devon Powell, IASC Executive Director. "There are many other substances that are listed on Prop. 65, like the chemicals used in dry cleaning, for example, but people still get their clothing dry-cleaned. We need to ensure that people get the right information about aloe vera, and continue to feel confident in the ingredient and its safety. We need to engage with a strong crisis management firm that will guide the industry in ensuring our messaging is consistent, accurate and positive."

"This is also another item that will be extremely costly," Powell continued, "and I don't think we can beat about the bush about it...without having any hard cost-data yet, I'd anticipate it will cost anywhere from \$30-50,000 a month to conduct a sustained and effective aloe vera PR campaign, and will likely need to be done over a period of well more than simply 1-2 months leading up to and after the NTP study release...but it's probably the one effort the Council and industry will need to do in regards to the NTP study that will have the most effect on whether or not we will continue to have a broad customer base. The membership and industry will need to step up or run the risk of losing a substantial portion, if not more, of the category."

#### **FEATURE ARTICLE**



### **FTC's Revised Testimonial Guides Will Be the Law of the Land Dec. 1: Is Your Advertising and Labeling in Compliance?**

By Anne V. Maher, Esq., Partner, Kleinfeld Kaplan & Becker

*In January 2007, the Federal Trade Commission (FTC) began the process of reconsidering its Testimonial Guides, the guidelines that advertisers use with respect to using testimonials or "endorsements" of products. The final revised Guides were published in the Oct. 1 Federal Register, and the new document becomes effective Dec. 1, 2009. Here KKB Partner Anne V. Maher, Esq., highlights the changes in the revised Guides that are most pertinent to your company.*

#### ***Definition of Endorsement***

*"Any advertising message (including verbal statements, demonstrations, or depictions of the name,*

*signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser." 16 CFR 255.0(b)*

### Consumer endorsements/testimonials

When using consumer testimonials, 16 CFR 255.2 requires a clear disclosure of generally expected performance in the depicted circumstances whenever the testimonial itself is not representative of what consumers can generally achieve with the advertised product in circumstances depicted. (The provision removes the safe harbor for "results not typical" or similar disclaimers accompanying consumer testimonials that report non-typical results.) Note, however, that an advertiser may be able to limit the scope of the disclosure by limiting the circumstances depicted in the advertisement.

The disclosure need not be based on an exact mathematical average of users of the product. For example, substantiation for a "generally expected results" disclosure could be extrapolated from valid, well-controlled clinical studies of patients matching the profile of the persons in the ad, even though consumers' real world results are not likely to match exactly the results in the clinical study. In some instances, advertisers may rely on generally accepted scientific principles (e.g., the average individual needs a net calorie deficit of 3,500 calories to lose 1 pound) to determine generally expected results. (The goal of the revision is to treat ads that use testimonials the same as all other ads, requiring substantiation for the messages that consumers reasonably take from the ads.)

#### Example 4 (16 CFR 255.2)

"An advertisement for a weight-loss product features a formerly obese woman. She says in the ad, 'Every day, I drank 2 WeightAway shakes, ate only raw vegetables, and exercised vigorously for six hours at the gym. By the end of six months, I had gone from 250 pounds to 140 pounds.'...Because the endorser clearly describes the limited and truly exceptional circumstances under which she achieved her results, the ad is not likely to convey that consumers who weigh substantially less or use WeightAway under less extreme circumstances will lose 110 pounds in six months. (If the advertisement simply says that the endorser lost 110 pounds in six months using WeightAway together with diet and exercise, however, this description would not adequately alert consumers to the truly remarkable circumstances leading to her weight loss.) The advertiser must have substantiation, however, for any performance claims conveyed by the endorsement (e.g., that WeightAway is an effective weight loss product).

"If, in the alternative, the advertisement simply features 'before' and 'after' pictures of a woman who says 'I lost 50 pounds in 6 months with WeightAway,' the ad is likely to convey that her experience is representative of what consumers will generally achieve. Therefore, if consumers cannot generally expect to achieve such results, the ad should clearly and conspicuously disclose what they can expect to lose in the depicted circumstances (e.g., 'most women who use WeightAway for six months lose at least 15 pounds')."

### Material connections between endorser and seller

When there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement (i.e., the connection is not reasonably expected by the audience), such connection must be fully disclosed. This disclosure requirement also applies to sponsorship of clinical trials conducted by outside research groups. Consumers reasonably can be more skeptical about research conducted by outside entities but funded by the advertiser than about studies that are both conducted and funded independently, because financial interest can create bias.

#### Example 1 (16 CFR 255.5)

"A drug company commissions research on its product by an outside organization. The drug company determines the overall subject of the research (e.g., to test the efficacy of a newly developed product) and pays a substantial share of the expenses of the research project, but the research



organization determines the protocol for the study and is responsible for conducting it. A subsequent advertisement by the drug company mentions the research results as the 'findings' of that research organization. Although the design and conduct of the research project are controlled by the outside research organization, the weight consumers place on the reported results could be materially affected by knowing that the advertiser had funded the project. Therefore, the advertiser's payment of expenses to the research organization should be disclosed in this advertisement."

Example 7 (16 CFR 255.5)

"A college student who has earned a reputation as a video game expert maintains a personal weblog or 'blog' where he posts entries about his gaming experiences. Readers of his blog frequently seek his opinions about video game hardware and software. As it has done in the past, the manufacturer of a newly released video game system sends the student a free copy of the system and asks him to write about it on his blog. He tests the new gaming system and writes a favorable review. Because his review is disseminated via a form of consumer-generated media in which his relationship to the advertise is not inherently obvious, readers are unlikely to know that he has received the video game system free of charge in exchange for his review of the product, and given the value of the video game system, this fact likely would materially affect the credibility they attach to his endorsement. Accordingly, the blogger should clearly and conspicuously disclose that he received the gaming system free of charge. The manufacturer should advise him at the time it provides the gaming system that this connection should be disclosed, and it should have procedures in place to try to monitor his postings for compliance."

**New Media: Consumer-generated content as an "endorsement"**

The fundamental question here is whether, viewed objectively, the relationship between the advertiser and the speaker is such that the speaker's statement can be considered "sponsored" by the advertiser and therefore an "advertising message."

Facts to consider:

- Whether the speaker is compensated by the advertiser or its agent;
- Whether the product or service in question was provided for free by the advertiser;
- The terms of any agreement;
- The length of the relationship;
- The previous receipt of products or services from the same or similar advertisers or the likelihood of future receipt of such products or services;
- The value of the items or services received.
- Note that an advertiser's lack of control over the specific statement made does not automatically disqualify that statement from being deemed an "endorsement."

Example 8 (16 CFR 255.0)

"A consumer who regularly purchases a particular brand of dog food decides one day to purchase a new, more expensive brand made by the same manufacturer. She writes in her personal blog that the change in diet has made her dog's fur noticeably softer and shinier, and that in her opinion, the new food definitely is worth the extra money. This posting would not be deemed an endorsement under the Guides..."

"Assume now that the consumer joins a network marketing program under which she periodically receives various products about which she can write reviews if she wants to do so. If she receives a free bag of the new dog food through this program, her positive review would be considered an endorsement under the Guides."

## New media: disclosure obligation and enforcement

Advertisers are subject to liability for false or unsubstantiated statements made through endorsements, or for failing to disclose material connections between themselves and their endorsers. Endorsers also may be liable for statements made in the course of their endorsements.

In the context of consumer-generated media, the endorser is the party primarily responsible for disclosing material connections with the advertiser. However, advertisers who sponsor these endorsers (either by providing free products-directly or through a middleman-or otherwise) in order to generate positive word of mouth and spur sales should establish procedures to advise endorsers that they must make the necessary disclosures and to monitor the conduct of the endorsers.

### Example 5 (9 CFR 255.1):

"A skin care products advertiser participates in a blog advertising service. The service matches up advertisers with bloggers who will promote the advertiser's products on their personal blogs. The advertiser requests that a blogger try a new body lotion and write a review of the product on her blog. Although the advertiser does not make any specific claims about the lotion's ability to cure skin conditions and the blogger does not ask the advertiser whether there is substantiation for the claim, in her review the blogger writes that the lotion cures eczema and recommends the product to her blog readers who suffer from this condition. The advertiser is subject to liability for misleading or unsubstantiated representations made through the blogger's endorsement. The blogger also is subject to liability for misleading or unsubstantiated representations made in the course of her endorsement. The blogger is also liable if she fails to disclose clearly and conspicuously that she is being paid for her services.

"In order to limit its potential liability, the advertiser should ensure that the advertising service provides guidance and training to its bloggers concerning the need to ensure that statements they make are truthful and substantiated. The advertiser should also monitor bloggers who are being paid to promote its products and take steps necessary to halt the continued publication of deceptive representations when they are discovered."

\*\*\*\*\*

*Anne V. Maher is a Partner at Kleinfeld, Kaplan and Becker (Washington, D.C.). Prior to joining KKB, she was from 1922-2001, the Assistant Director of the Advertising Practices Division in the FTC's Bureau of Consumer Protection. In that role, she supervised law enforcement investigations and industry outreach efforts in such areas as food, dietary supplement, OTC drug, tobacco, alcohol, infomercial and online advertising. Prior to her appointment as Assistant Director, she served in the Office of the Director, Bureau of Consumer Protection, and as Attorney Advisor to an FTC Commissioner.*

*This article was originally published in the November 2009 AHPA Report.*



Ullman, Shapiro & Ullman attorneys have long established nationwide reputations in the areas of Food and Drug Law, Intellectual Property and Trade Regulation Litigation.

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## THE SCIENCE OF ALOE - Recently Published Studies

- [Liposomes encapsulating Aloe vera leaf gel extract significantly enhance proliferation and collagen synthesis in human skin cell lines.](#)
- [Comparative evaluation of the antimicrobial efficacy of aloe vera tooth gel and two popular commercial toothpastes: An in vitro study.](#)
- [Purification of aloe polysaccharides by using aqueous two-phase extraction with desalination.](#)
- [Influence of Aloe Vera gel on dermal wound healing process in rat.](#)
- [A HPTLC densitometric method for the determination of aloeverose in Aloe vera gel.](#)
- [Cosmeceuticals and natural products: wound healing.](#)
- [A prospective, randomized clinical trial comparing topical aloe vera with 0.1% triamcinolone acetonide in mild to moderate plaque psoriasis.](#)

## REGULATORY NEWS: NOSB RECOMMENDATION ON PERSONAL CARE

### NOSB Recommends NOP Explicitly Include Personal Care within Scope of NOP

The National Organic Standards Board (NOSB) met Nov. 3-5 in Washington, D.C. and voted 12-1 in favor of recommending to the National Organic Program (NOP) that "organic personal care products be recognized explicitly by the USDA National Organic Program (NOP) to ensure consumers and businesses alike that the products have an unquestioned home in the USDA National Organic Program." The recommendation complete recommendation is available [here](#).

Several days before the vote, NOP Deputy Administrator Miles McEvoy stated during his [report](#) to NOSB that personal care products were not viewed as a top priority for NOP. With its recommendation, NOSB aims to make this a priority for NOP and bring clarity to the meaning of "organic" for consumers and consistency for both consumers and businesses. NOSB stated that they are asking the NOP, through this recommendation, to take action because they believe the industry is not sustainable as it is. NOSB

stated that if the industry continues on this path, there is a risk of losing ownership of the term organic and of losing the program as they have it today.

NOSB also recommended that because FDA and USDA need to work together on this issue, USDA should consider a MOU with FDA, and stated that precedence exists for MOUs between FDA & USDA, i.e.: for livestock medicines. To the extent possible, the NOSB has suggested terminology in their recommendation consistent with FDA regulations, i.e.: using "article," because it is a FDA defined term.

The recommendation is now with NOP, which has said it plans to respond to recommendations at the next and future NOSB meetings.

## IASC NEWS



### New IASC E-Book on Aloe Available from Virgo Publishing

The International Aloe Science Council (IASC) is pleased to announce the publication of "The International Aloe Science Council Presents: An Aloe Scientific Primer" written by IASC Executive Director Devon Powell and published by Virgo Publishing.

The new e-book - available for download on Virgo's Natural Products Insider Web site - provides information on commonly traded aloe species, advice on growing aloe for profit, discussion of aloe vera as a market commodity, and a detailed appendix on aloe species and organic certification.

"Interest in the cultivation of aloe vera is high, and IASC hopes this new book provides answers to some of the most commonly asked questions," said Powell. "We are proud to be the source for information on this beneficial plant and look forward to continuing to provide information useful to industry and consumers."

To download your copy, visit

<http://www.naturalproductsinsider.com/EBooks.aspx?tw=20091016080907>.

## ALOE IN THE NEWS



[Banish Bowel Backup Naturally - Baltimore Sun](#), Nov. 12, 2009

[Bid to help farmers-entrepreneurs grow aromatic plants - Times of India](#), Nov. 7, 2009


[True aloe: Bringing the spa home - Jamaica Observer](#), Nov. 2, 2009

[The Alternative Medicine Cabinet: Aloe Vera for Burns - NY Times Health Blog](#), Oct. 29, 2009

[Healthy Beverage Choices & Other Trends - The Gourmet Retailer](#), Oct. 20, 2009

[HEALTH: Treating psoriasis - The Mayo News](#), Oct. 5, 2009

[Aloe Juice, Nutritious Milkshake & Herbal Tea A Good Breakfast Replacement - IndiaServer.com](#), Sept. 29, 2009



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