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# Salve for shorts

## Herbalife is the subject of 'pending' probe

By MICHELLE CELARIER  
 Last Updated: 4:16 PM, February 12, 2013  
 Posted: 11:53 PM, February 4, 2013

### EXCLUSIVE

Embattled Herbalife is feeling the heat — and this time it isn't coming from a hedge-fund mogul.

The Los Angeles-based distributor of nutritional products is the subject of a law enforcement investigation, The Post has learned.

The existence of the probe emerged after the Federal Trade Commission, responding to a Freedom of Information Act request by The Post, released 192 complaints filed against Herbalife over the past seven years.

The FTC redacted some sections, saying it didn't have to divulge "information obtained by the commission in a law enforcement investigation, whether through compulsory process, or voluntarily ..."

### FTC CORRECTS LANGUAGE ON HERBALIFE

Other complaints contained a note referring to a "pending law enforcement action." The FTC did not say whether the action was civil or criminal.

The Post filed a Freedom of Information Law request with the FTC on Dec. 26 to see if there had been any substantive complaints six days after hedge-fund activist Bill Ackman went public with a \$1 billion short position — calling Herbalife's multi-level marketing model a pyramid scheme that should be shut down by regulators.

In all, the FTC released 729 pages of complaints.

The FTC received complaints about false promises Herbalife made and the difficulty distributors had in collecting income owed and in getting refunds. Some, months and years before Ackman did so, told the FTC they believed the company is a pyramid scheme.

One distributor in Franklin, Pa., wrote, "I have been in a real dilemma regarding what to do about this business."

"I do not like the deception present. It's one thing not to reveal every detail; it's another to outright lie and encourage others to do so . . . you encourage lying."

The woman said she was given a script to read to recruits that there were "only a few openings left."

"Yeah, right!" the woman wrote in her complaint.

The woman — who said her husband earned \$4,000 a month — also said Herbalife

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told her she would need to spend \$6,450 a month to turn a profit. "How in the world am I going to expend this kind of money?" she asked in her complaint. She said she felt trapped. "If I quit, I have no hope of paying off the \$7,000 [already due the company] left on the credit card."

In a statement, Herbalife said it receives "a relatively low number of complaints" and takes "every one of them seriously."

Herbalife shares and its execs have been under pressure since Dec. 19 when Ackman announced his massive short position.

Shares tumbled 38.7 percent in the four trading days following the Ack-attack. But an 8 percent stake bought by hedge-fund rival Dan Loeb in early January pushed the stock back up some 77 percent by Jan. 15.

Loeb said it was "preposterous" that the FTC would take action against the company. Shares see-sawed again last week, falling almost 20 percent after the FTC shut down a Kentucky multi-level marketing operation.

For much of this year, investors have staked out positions — some backing Ackman and others behind Loeb — not knowing what regulators would do.

After reviewing the now-public complaints, which the FTC put on its website, Ackman told The Post: "I have a lot more confidence in our government's regulators than those who own the stock."

The FTC and Loeb could not be reached for comment.

[mcelarier@nypost.com](mailto:mcelarier@nypost.com)

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