

Pershing Square Analysis Details Significant Similarities between Herbalife and FTC-Alleged Pyramid Scheme Vemma

New York, September 15, 2015 // - Pershing Square Capital Management, L.P. ("Pershing Square") today released a detailed analysis that demonstrates significant structural similarities between Herbalife Ltd. ("Herbalife") and Vemma Nutrition Company ("Vemma"), the multilevel marketing company that has been halted and whose assets have been seized by a federal court at the request of the Federal Trade Commission for being an alleged pyramid scheme. The FTC's move to shut down Vemma is reassuring for consumers but should worry Herbalife.

"Herbalife defenders have gone out of their way to try to show ways the two companies are different," said David Klafter, Pershing Square Capital Management's Senior Counsel. "In reality, they are fundamentally the same."

Herbalife is an enormous pyramid scheme and its structure parallels Vemma and other fraudulent companies that the FTC has already shut down, including Fortune Hi-Tech Marketing which was shut down in January 2013. In the case of Vemma, the FTC's complaint concerns many fundamental aspects of Vemma's business that are integral to Herbalife's business model.

For example:

- **Income claims. Both Herbalife and Vemma seriously misrepresent the potential for income:**
 - **The bottom 93% of Vemma Affiliates earned less than \$6,169/year.** The FTC alleges: "[Vemma] claim[s] affiliates can earn substantial income by enrolling others either as affiliates or as customers, but Vemma focuses on recruitment rather than retail sales of its products to generate this income. The vast majority of participants make no money, and most of them lose money."
 - **The bottom 94% of Herbalife Sales Leaders earned less than \$2,245/year.** Herbalife bills itself as "the best business opportunity on the face of the earth" and promises its recruits vast sums of money, but in reality 89% of distributors receive \$0 in "gross compensation." In 2014, nearly 2 million members churned through Herbalife. 90% of non-sales leaders fail annually.

- **Focus on recruiting. Both Herbalife's and Vemma's compensation plans are designed to incentivize recruiting rather than retail sales.**
 - Stacie Bosley, the FTC's expert concerning Vemma, found: "All forms of compensation are driven by recruitment or purchase volume and there is no direct connection between this compensation and retail sales or market demand."
 - Herbalife's compensation is driven by recruitment rather than retail sales. In Herbalife v. Ford, the Federal Court found: "Herbalife's entire business model appears to incentivize primarily the payment of compensation that is 'facially unrelated to the sale of the product to the ultimate users because it is paid based on the suggested retail

price of the amount ordered from [Herbalife], rather than based on actual sales to consumers.”

- **Lack of retail profit opportunity. Neither Herbalife nor Vemma tracks retail sales outside the network. Furthermore, it’s unlikely Herbalife or Vemma distributors could earn a significant retail profit on any retail sales they do make.**
 - The FTC alleges “The likelihood of [Vemma] Affiliates earning profits on retail sales is minimal.”
 - Herbalife distributors could only earn a significant retail profit if the product is sold at suggested retail price; however, the data show that the product is sold at steep discounts.

The substantive similarities between Vemma and Herbalife extend much further, while the minor differences between the companies, such as Vemma’s auto-ship and refund policies, are not material to the FTC’s central allegations that Vemma is a pyramid scheme.

To view the entire comparison that clearly shows Vemma and Herbalife are far more alike than different, click [HERE](#)

About Pershing Square Capital Management, L.P.

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