



**FDA U.S. FOOD & DRUG
ADMINISTRATION**



WARNING LETTER

Date: May 28, 2020

TO: info@staywellcopper.com – Marcia Reece & Diana French, StayWell Products LLC
2005 Lindenmeier Road
Fort Collins, Colorado 80524

RE: Unapproved and Misbranded Products Related to Coronavirus Disease 2019 (COVID-19)

This is to advise you that the United States Food and Drug Administration (FDA) and the Federal Trade Commission (FTC) reviewed your website at the Internet address www.staywellcopper.com on May 20, 2020, and May 26, 2020, respectively. We also reviewed your social media websites at www.facebook.com/StayWellCopperProducts/, www.instagram.com/staywellcopper/, and www.twitter.com/StaywellCU, where you direct consumers to your website at www.staywellcopper.com to purchase your products. The FDA has observed that your website offers copper “Germ Stopper” products for sale in the United States and that these products are intended to mitigate, prevent, treat, diagnose, or cure COVID-19¹ in people. Based on our review, these products are unapproved new drugs sold in violation of section 505(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. § 355(a). Furthermore, these products are misbranded drugs under section 502 of the FD&C Act, 21 U.S.C. § 352. The introduction or delivery for introduction of these products into interstate commerce is prohibited under sections 301(a) and (d) of the FD&C Act, 21 U.S.C. § 331(a) and (d).

There is currently a global outbreak of respiratory disease caused by a novel coronavirus that has been named “severe acute respiratory syndrome coronavirus 2” (SARS-CoV-2). The disease caused by the virus has been named “Coronavirus Disease 2019” (COVID-19). On January 31, 2020, the Department of Health and Human Services (HHS) issued a declaration of a public health emergency related to COVID-19 and mobilized the Operating Divisions of HHS.² In addition, on March 13, 2020, the President declared a national emergency in response to COVID-19.³ Therefore, FDA is taking urgent measures to protect consumers from certain products that, without approval or authorization by FDA, claim to mitigate, prevent, treat, diagnose, or cure COVID-19 in people. As described below, you sell products that are intended to mitigate, prevent, treat, diagnose, or cure COVID-19 in people. We request that you take immediate action to cease the sale of such unapproved and unauthorized products for the mitigation, prevention, treatment, diagnosis, or cure of COVID-19.

Some examples of the claims on your websites that establish the intended use of your products and misleadingly represent them as safe and/or effective for the treatment or prevention of COVID-19 include:

¹ As explained in the next paragraph, there is currently an outbreak of a respiratory disease named “Coronavirus Disease 2019” (COVID-19).

² Secretary of Health and Human Services Alex M. Azar II, Determination that a Public Health Emergency Exists. Jan. 31, 2020. (Accessible at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>). The declaration was renewed for another 90 days on April 21, 2020. Secretary of Health and Human Services Alex M. Azar II, Renewal of Determination that a Public Health Emergency Exists. April 21, 2020.

³ President Donald J. Trump, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19). Mar. 13, 2020. (Accessible at <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>).

- “We at StayWell™ Copper consider our products as non-messy, non-chemical alternatives to bottled hand sanitizers. The details of the chemical reactions involved in copper’s natural antimicrobial properties vary by microorganism, but the science shows that there is an ionic exchange between the copper surface and the microorganism. Whether there’s a cell wall as with bacteria and fungi, or a membrane, as with many but not all viruses (COVID-19 has a membrane or envelope holding in the rest of the viral contents) the effect copper has on the microorganism is the same: it is disrupted.” [from your website at www.staywellcopper.com]
- On a webpage titled “CORONAVIRUS OUTBREAK,” you state “Staywell Copper is a natural, germ-killing alternative to hand sanitizers, giving you a powerful layer of protection against germs such as Coronavirus, as well as MRSA, e. coli and many more. By rubbing your StayWell Copper regularly, you have the peace of mind that pure copper is killing 99.97% of germs on your hands. Touch is one of the main ways germs are transmitted, so keeping your hands germ-free with StayWell Copper rollers, tags and patches is a great way to prevent transmission of germs.” [from your website at www.staywellcopper.com]
- Adjacent to a graphic that displays “RIP Coronavirus,” you state “Contact with StayWell™ Copper causes the cell membrane or the virus’ proteins to rupture and the cell or virus to break down completely.” [from your website at www.staywellcopper.com]
- “Copper kills coronavirus!! StayWell Copper is dedicated to adding an extra layer of protection on all the things we touch most, like our cellphones! . . . #covid_19” [from a March 17, 2020 post on your Facebook page at www.facebook.com/StayWellCopperProducts]
- “Copper Destroys Viruses and Bacteria. It could destroy norovirus, MRSA, virulent strains of E. Coli, and coronaviruses – including the novel strain currently causing the #COVID19 pandemic.” [from a March 18, 2020 post on your Facebook page at www.facebook.com/StayWellCopperProducts]
- “We all know that viruses spread through touch, saliva, intimate contact, contaminated food and water and insects, so getting an extra layer of protection on you via StayWell Copper means you’ve got natural antimicrobial copper killing germs and viruses like Coronavirus for you 24/7.” [from a January 24, 2020 post on your Instagram page at www.instagram.com/staywellcopper]
- “Keep your #StayWell Copper close to you as an added layer of protection from the #Coronavirues [sic]” [from a January 28, 2020 post on your Twitter feed at www.twitter.com/StaywellCU]
- “Style has never been so powerful before – now being stylish kills germs on contact. – Just roll the pure Copper Germ Stopper Roller between your palms to rid your hands of germs. #covid2019 #covid19protection #staywellcopper #nogermers” [from a March 26, 2020 post on your Twitter feed at www.twitter.com/StaywellCU]

You should take immediate action to correct the violations cited in this letter. This letter is not meant to be an all-inclusive list of violations that exist in connection with your products or operations. It is your responsibility to ensure that the products you sell are in compliance with the FD&C Act and FDA’s implementing regulations. We advise you to review your websites, product labels, and other labeling and promotional materials to ensure that you are not misleadingly representing your products as safe and effective for a COVID-19-related use for which they have not been approved by FDA and that you do not make claims that misbrand the products in violation of the FD&C Act. **Within 48 hours, please send an email to COVID-19-Task-Force-CDER@fda.hhs.gov** describing the specific steps you have taken to correct these violations. Include an explanation of each step being taken to prevent the recurrence of violations, as well as copies of related documentation. Failure to immediately correct the violations cited in this letter may result in legal action, including, without limitation, seizure and injunction.

FDA is advising consumers not to purchase or use certain products that have not been approved, cleared, or authorized by FDA and that are being misleadingly represented as safe and/or effective for the treatment or prevention of COVID-19. Your firm will be added to a published list on FDA’s website of firms and websites that have received warning letters from FDA concerning the sale or distribution of COVID-19 related products in violation of the FD&C Act. This list can be found at

<http://www.fda.gov/consumers/health-fraud-scams/fraudulent-coronavirus-disease-covid-19-products>.

Once you have taken corrective actions to cease the sale of your unapproved and unauthorized products for the mitigation, prevention, treatment, diagnosis, or cure of COVID-19, and such actions have been confirmed by the FDA, the published list will be updated to indicate that your firm has taken appropriate corrective action.

If you cannot complete corrective action within 48 hours, state the reason for the delay and the time within which you will complete the corrections. If you believe that your products are not in violation of the FD&C Act, include your reasoning and any supporting information for our consideration.

If you are not located in the United States, please note that products that appear to be misbranded or unapproved new drugs are subject to detention and refusal of admission if they are offered for importation into the United States. We may advise the appropriate regulatory officials in the country from which you operate that FDA considers your product(s) referenced above to be unapproved and misbranded products that cannot be legally sold to consumers in the United States.

Please direct any inquiries to FDA at COVID-19-Task-Force-CDER@fda.hhs.gov.

In addition, it is unlawful under the FTC Act, 15 U.S.C. 41 et seq., to advertise that a product can prevent, treat, or cure human disease unless you possess competent and reliable scientific evidence, including, when appropriate, well-controlled human clinical studies, substantiating that the claims are true at the time they are made. For COVID-19, no such study is currently known to exist for the product identified above. Thus, any coronavirus-related prevention or treatment claims regarding such product are not supported by competent and reliable scientific evidence. You must immediately cease making all such claims. Violations of the FTC Act may result in legal action seeking a Federal District Court injunction and an order may require that you pay back money to consumers. Within 48 hours, please send an email to Richard Cleland, Assistant Director of the FTC's Division of Advertising Practices, via electronic mail at rcleland@ftc.gov describing the specific actions you have taken to address the FTC's concerns. If you have any questions regarding compliance with the FTC Act, please contact Mr. Cleland at 202-326-3088.

Sincerely,

Sincerely,

Donald D. Ashley
Director
Office of Compliance
Center for Drug Evaluation and Research
Food and Drug Administration

Richard A. Quaresima
Acting Associate Director
Division of Advertising Practices
Federal Trade Commission