

NEWS RELEASE

Luther Strange

Alabama Attorney General



FOR IMMEDIATE RELEASE

September 5, 2013

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AG GETS TRO AGAINST SPORTS PERFORMANCE COMPANY FOR UNSUPPORTED AND DANGEROUS HEALTH CLAIMS

MONTGOMERY – Attorney General Luther Strange has been granted a temporary restraining order to stop a Birmingham-area company from selling products that not only claim incredible health and athletic benefits that are unsupported, but the use of which may also present significant dangers to consumers. In a civil complaint filed today along with a motion for the temporary restraining order, Attorney General Strange charged SWATS Edge Performance Chips, LLC and its principal officers – Mitchell Ross and Christopher Key – with at least 264 counts of Deceptive Trade Practices Act violations.

The Attorney General cited extensive evidence that the defendants' alleged violations pose a threat of immediate and irreparable injury. Jefferson County Circuit Judge Caryl P. Privett also granted the Attorney General's request to appoint a receiver and take necessary steps to preserve assets. As a result, approximately \$200,000 in cash and vehicles were seized this afternoon, and GlassRatner Management and Realty Advisors, LLC, has been appointed as a receiver to protect consumers' interests. A hearing for a preliminary injunction is set for 9 a.m. on September 19.

SWATS is a Wisconsin limited liability company doing business in Alabama in the Jefferson County city of Fultondale. The Attorney General's complaint describes the company's operators as "two men with no advanced medical or scientific background (who) practice their homespun versions of medicine, science, and pharmacology through SWATS, their self-styled supplement and wonder-drug outlet near Birmingham. Limited only by what their imagination can conjure, Ross and Key will say and sell anything under the premise of boosting athletic performance."

The complaint notes that "since forming in January 2011, SWATS has rapidly expanded into a million-dollar business through a combination of controversy, shock advertising, and the declaration that its products are world leaders in the sports performance industry." With an advertising blitz that includes a massive RV emblazoned with its logos, YouTube videos with experts who include a doctor (actually not of medicine, but of theology), and a news conference before the 2013 Super Bowl in New Orleans, defendants "have asserted that they have 'the NFL concussion problem solved' and that SWATS products 'can reverse the symptoms of ALS [Lou Gehrig's Disease],' 'knock out the swine flu in 90 minutes', and treat diabetes."

In fact, the complaint notes, "spanning nearly every aspect of the human body and its performance, SWATS advertises that its products will reduce your risk of cancer, alleviate anemia, control blood pressure, stimulate muscle growth, increase testosterone,

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grow new brain cells, prevent heat stroke, 'reduce the long-term effects of concussive trauma to the brain,' boost the immune system, ease arthritis and inflammation, reduce lines and wrinkles, balance the hormones necessary for healthy sexual function, increase the oxygen-carrying capacity of the blood, promote weight loss, and deliver anti-aging proteins." Regarding any scientific basis for these remarkable claims, Key said, "We don't have to prove that this is real or not. What we're looking for is for [science] to prove that it is not real."

Among the most well-known of SWATS products are sprays and tablets purporting to contain potent doses of a hormone produced by deer that is called IGF-1, or insulin-like growth factor 1. IGF-1 also is produced in people, complementing human growth hormone (hGH) in the growth and development of children. The legitimate medical use of IGF-1 is rare, is nearly always confined to children with severe growth-defect deficiencies, and is closely monitored for any severe side effects.

The potential damage to adults with excessively elevated levels of IGF-1 is even more serious, according to studies conducted by Harvard Medical School and Harvard School of Public Health covering tens of thousands of individuals. The results showed a three-to fourfold increase in chances of colorectal, breast or prostate cancer in those with the highest IGF-1 levels. Sustained high IGF-1 levels also are linked to damaged eyes, enlarged hearts, hypoglycemia and hyperglycemia. Thus, the Attorney General's complaint states, "ample scientific evidence demonstrates why IGF-1 injections are nearly always limited to children with severe growth-hormone deficiencies" and under close medical supervision.

To investigate these products, the Attorney General obtained samples that were sent to the Sports Medicine Research and Testing Laboratory in Salt Lake City (a laboratory approved by the World-Anti-Doping Agency). Scientists there found no evidence the sprays and tablets contained any deer IGF-1 as prominently advertised, but instead concluded the likely source was from cows or humans. Regardless of this deception over where any IGF-1 may have come from, "this finding does not change the fact that SWATS makes significant claims about its products benefits and mentions no possible side effects or dangers," the Attorney General's complaint states.

Another SWATS product that raises serious concern is its Cooling Concussion Cap. "Marketed primarily at football players, SWATS represents that its Cooling Concussion Cap will help players whether they participate in Friday night high-school games or on Sunday afternoons in the NFL," the Attorney General's complaint notes. "Ross has even stated his intent to start a youth tackle-football league for children as young as nine at which all the participants will wear his concussion caps."

The Attorney General's complaint states that "the concussion cap itself is just a black compression-style skull cover. The purchased package includes a can of Energice Liquid Ice (a blue liquid that resembles and smells like Vick's VapoRub) and instructions that say to immerse the cap into the liquid and then put the cap on your head. The instructions say that by doing so a user will 'minimize the inflammation of The Brain.'" In a YouTube video, Ross claims the cap "can help reduce the inflammation due to small, blunt-force trauma to

the head” and urges parents to use it to “take care of your child’s brain because a mind is a terrible thing to waste.”

As with the IGF-1 sprays and tablets, the Attorney General’s Office turned to reputable studies and experienced doctors, and found serious concerns. Significant among these is “the worry that the cap’s name itself creates a false sense of security, that reliance on it will lead to worse medical monitoring after injuries, and that its use will encourage wearers to engage in risky behavior and delay seeking medical attention if hurt.” The Attorney General’s brief also cites the doctors’ findings that “whatever cooling effect the concussion cap may have is limited solely to the skin’s surface, not the body’s core temperature. The concussion cap reduces the body’s core temperature no better than a cool rag would.”

Furthermore, SWATS’s recommendation that the caps be worn during practice and games is dangerous in that “helmets come with holes in them to allow the head to ‘breathe’ – that is, to release sweat, which keeps the body cool. Once a concussion cap is placed on someone’s head, though, the cap will be cool for a while, but eventually, especially on a hot day, it will warm up. Then, by bottling up and blocking the body’s natural method of releasing heat through sweat, the concussion caps may actually increase body temperature, not just skin temperature. Hence, not only do SWATS concussion caps not prevent heat stroke, they may contribute to it if worn during practice or a game.”

A third broad category of SWATS products are chips for performance, pain management, insoles, and athletic performance bands. SWATS says these products contain holographic stickers “that bind sound vibrations into a disc to influence the human vitality field.” Worn once or repeatedly, applied directly to the skin or placed up to two inches from the body, these chips are claimed to increase strength, stamina, endurance and recovery. Specifically, the pain chips are said to work “on all kinds of pain anywhere in the body including but not limited to inflammatory pains ([e.g.] osteoarthritis, rheumatoid arthritis, tendonitis, plantar fasciitis, and chronic inflammatory pain), sprains, strains, feminine cramps, bone fractures, and any sports-related injuries or pains.” In a video, Ross further claims the chips treat spinal stenosis.

The Attorney General’s complaint asserts that “like SWATS other products, the chips are long on claims and short on science.....Like the concussion cap and the sprays and tabs, the various chip products are marketed and sold under specific panacean-like promises that imply the science is there and the only variable on the results is your money. But the reality, which doubles as SWATS’s modus operandi, is that SWATS is waiting for science to prove its claims aren’t real, not the other way around.”

Attorney General Strange commended his Office of Consumer Protection, noting in particular Assistant Attorneys General Kyle Beckman, Cameron McEwen, and section chief Noel Barnes; and Special Agents of the Attorney General’s Investigations Division, for their skill and diligence in handling this case. He also thanked the Jefferson County Sheriff’s Office for its assistance.