

Annette Pelliccio TheHappyGardener,Inc

June 26, 2006

Federal Trade Commission Office of the Secretary, Room H135 (AnnexW) 600 Pennsylvania Avenue, NW Washington, DC 20580

Re:BusinessOpportunityRule,R511993

Dear Sir or Madam,

I am writing this letter in response to the proposed New Business Opportunity Rule R51 1993. I truly appreciate and support the FTC's efforts to protect consumers, however, I do believe that the specific components of this proposed rule could have devastating effects on the growth of my company, The Happy Gardener, as well as many others who have chosen to operate using the direct selling business model.

I could not be prouder of what The Happy Gardener has accomplished during the past three years of development for my family, for the community and for the environment. All of us involved in this company have made the commitment to educate home gardeners on earth friendly gardening practices promoting healthy living for families, wildlife and the environment. Our Independent Garden Consultants are able to build an income generating business while teaching consumers the benefits of our line of organic plant foods, lawn care, birding, composting and gardening products. We encourage homeowners to take responsibility for the preservation of our world by choosing alternative methods of weed control, pest control and fertilization.

I grew up working in my family's garden center so I know what would happen if we stocked our organics packaged in recycled, kraft paper bags on the shelves amongst all the other gardening supplies. Consumers would walk right past them, never knowing what they were missing! There's the necessary education that must accompany our products, and it's the direct selling model that fits so perfectly with what we provide. I really cannot imagine effectively marketing our products any other way. The Happy Gardener is as much about education as about selling a product.

As a former educator with the public school system, I have always believed in teaching children the responsibility of caring for the environment and for helping others in the community. The Happy Gardener has enabled me and so many others throughout the country to build a business that is based on helping others. We help homeowners learn healthy gardening practices; we help our communities by creating PlantaRowfortheHungry national campaigns; we help entrepreneurs build their own gardening businesses. We are all about *doing what's right*. Your proposed rule indicates to our prospective customers that we may be *doing something wrong*.

Litigation Information: This section of your proposed rule which calls for there lease of any information regarding litigation and civil or criminal legal actions could be very harmful for us as we move our growing company forward. I support the need to report litigation that is related to the earning opportunity offered to a prospective independent distributor, however, I see unfairness in having to report legal actions regardless of outcome. As an inexperienced businesswoman, I was put in a very unfortunate situation with a dishonest bookkeeper a year ago. I was fortunate that the suit was dropped and never did end up in court. If it had gone to court even though the outcome would have been in our favor, my company's credibility and my customers' trust would have greatly decreased if we had to report this situation. I also see the unfairness to young companies like ours who do not possess the money that more established companies could use to eliminate legal

problems by settling out of court. Once again, we are building a company that is based on *doing what's right* and your proposed rule could indicate that we are *doing something wrong*.

7 Day Waiting Period: This section of your proposed rule does not seem appropriate since we are already required to adhere to the Notice of Cancellation policy. Additionally, even though The Happy Gardener does not require an Independent Consultant Kit purchase, the DSA requires any member company requiring a kit purchase to refund the purchase price of 90% within a year of the purchase. I think that these current refund/buyback policies are sufficient.

References: This section of your proposed rule indicates that prospective independent distributors be presented with (10) references of prior purchasers. I have no idea how any company with independent distributors could justify making personal information available without the risk of privacy lawsuits.

Earnings Claims: The DSA presents direct selling companies with strict regulations for companies and how to control earnings claims. The Happy Gardener has a strict policy prohibiting any earnings claims to be made by anyone representing our company. I believe that honest companies adhere to these regulations and dishonest companies are going to ignore them regardless.

Elimination of the \$500 Threshold: I started The Happy Gardener on a shoestring so I could stay at home and raise my family. We have continued to offer our opportunity to others without the need of large investment means. Our optional organic line sampler kit is \$69 and our demonstration kit is \$149. Your proposal to eliminate the \$500 threshold would force us to comply with other provisions that are appropriate for businesses requiring a greater investment. I do not believe that this component of your proposal is fair or appropriate.

I absolutely support the FTC's position on protecting the consumer and I believe that the current regulations specific to Notice of Cancellation, buyback policy, and earnings claims have been appropriate for direct sales companies. The DSA has been an excellent resource for The Happy Gardener helping to make sure we are in compliance of all regulations and policies. We know that we are *doing what's right* while maintaining our customers' trust and satisfaction and educating others to preserve and respect the world we live in one garden at a time.

I hope that you take our comments into careful consideration. There are many committed people involved with The Happy Gardener and we want it to be protected so we may serve many gardeners and our environment for generations to come.

Sincerely,

Annette Pelliccio Founder  
and President The Happy  
Gardener, Inc