

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

v.

B4B EARTH TEA LLC, a limited liability  
company;

B4B CORP., a corporation; and

ANDREW MARTIN SINCLAIR, individually  
and as an officer of B4B EARTH TEA LLC and  
B4B CORP.,

Defendants.

**COMPLAINT FOR CIVIL  
PENALTIES, PERMANENT  
INJUNCTION, MONETARY  
RELIEF, AND OTHER RELIEF**

**Civil Action No.: 22-CV-1159**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC”), pursuant to Section 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 56(a)(1), and on behalf of the United States Food and Drug Administration (“FDA”), alleges:

**NATURE OF THE CASE**

1. The United States brings this action for permanent injunctive relief, civil penalties, and other remedies pursuant to the FTC Act, 15 U.S.C. § 45(a), § 45(m)(1)(A), § 52, and § 57a(a)(1)(B), the COVID-19 Consumer Protection Act, Pub. L. No. 116-260, Title XIV, § 1401(b)(1), and the Federal Food, Drug, and Cosmetic Act (“FDCA”), 21 U.S.C. § 331(d), against B4B Earth Tea LLC, B4B Corp., and Andrew Martin Sinclair (“Defendants”). The

Defendants manufacture and sell an herbal tea product called B4B Earth Tea Extra Strength (“Earth Tea”). Defendants sell Earth Tea for \$60 per 16-ounce bottle. Defendants have been advertising Earth Tea on social media and the internet as a product capable of preventing and treating the Coronavirus Disease 2019 (“COVID-19”), even claiming that it is more effective than the available COVID-19 vaccines. Defendants lack competent and reliable scientific bases for these claims, and their use of deceptive advertising and misinformation, exploiting fears in the midst of a pandemic to sell their product to concerned consumers, poses a significant risk to public health and safety.

2. The Federal Trade Commission (“FTC”) has repeatedly warned Defendants that their deceptive advertising and misrepresentations violate the FTC Act and the COVID-19 Consumer Protection Act. The U.S. Food and Drug Administration (“FDA”) has similarly warned Defendants that as currently marketed, Earth Tea is an unapproved new drug, and its sale into interstate commerce a violation of the FDCA, 21 U.S.C. § 331(d). Despite these warnings, Defendants continue to make deceptive and misleading statements about the ability of Earth Tea to prevent and treat COVID-19. The United States therefore brings this suit seeking permanent injunctive relief, civil penalties, and other remedies in order to prevent the harms caused by Defendants’ ongoing misrepresentations.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this action pursuant to (1) 28 U.S.C. § 1331, because it arises under the law of the United States; (2) 28 U.S.C. § 1337(a), because it arises under an Act of Congress regulating interstate commerce or protecting trade and commerce against restraints and monopolies; (3) 28 U.S.C. § 1345, because the United States is the Plaintiff; (4) 28 U.S.C. §1355, because the United States seeks a civil penalty; and

(5) 21 U.S.C. 332(a) for violations of Section 331 of the FDCA.

4. At all times relevant to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. The Court has personal jurisdiction over the defendants because the majority of Defendants reside in this district and because the alleged acts giving rise to the claims occurred in this District.

6. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b), because the majority of Defendants reside in this District and because a substantial part of the events or omissions giving rise to the claims occurred in this District.

#### **PARTIES**

7. Plaintiff is the United States of America.

8. Defendant B4B Earth Tea LLC is a New York limited liability company with its principal place of business at 40 Remsen Ave., Brooklyn, New York 11212. B4B Earth Tea LLC transacts or has transacted business in this District and throughout the United States. At all times relevant to this Complaint, acting alone or in concert with others, Defendant B4B Earth Tea LLC has manufactured, advertised, marketed, distributed, or sold Earth Tea, an herbal tea containing water, honey, aloe vera, and herbs, to consumers throughout the United States.

9. Defendant B4B Corp. is a Michigan corporation with the address of the incorporator listed at 19179 Ilene St., Detroit, Michigan 28221. On information and belief, B4B Corp. conducts business at 40 Remsen Ave., Brooklyn, New York 11212, and transacts or has transacted business in this District and throughout the United States. At all times relevant to this

Complaint, acting alone or in concert with others, B4B Corp. has manufactured, advertised, marketed, distributed, or sold Earth Tea, an herbal tea containing water, honey, aloe vera, and herbs, to consumers throughout the United States.

10. Defendant Andrew Martin Sinclair, who also calls himself “Busta Sinclair,” is the sole individual identified as founder, owner, agent, or principal officer of B4B Earth Tea LLC and B4B Corp. (jointly, “Corporate Defendants”). At all times relevant to this Complaint, acting alone or in concert with others, Defendant Sinclair has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants, including the acts and practices set forth in this Complaint. Defendant Sinclair is actively involved in Corporate Defendants’ business affairs. He created and manufactures Earth Tea and participates in promotions for Earth Tea through, among other things, posts on Facebook, TikTok, Twitter, Instagram, and YouTube accounts; personal appearances in videos posted on TikTok, Twitter, and YouTube; broadcasts on Instagram; and email communications with consumers who order Earth Tea. He has made representations in these online videos and social media posts about the purported efficacy of Earth Tea to prevent, mitigate, treat, or cure COVID-19. He also responded directly to a February 18, 2021 joint warning letter from the FTC and FDA to B4B Corp. about false or unsubstantiated advertising claims about Earth Tea and to subsequent communications from FTC staff. Defendant Sinclair resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

#### THE FTC ACT

11. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts

or practices in or affecting commerce.”

12. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

13. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, Earth Tea is a “drug” as defined in Section 15(c) of the FTC Act, 15 U.S.C. § 55(c).

### **THE COVID-19 CONSUMER PROTECTION ACT**

14. On January 31, 2020, the Secretary of Health and Human Services declared that COVID-19 had caused a public health emergency. As of the date of the filing of this complaint, the public health emergency remains in effect.

15. The COVID-19 Consumer Protection Act, signed into law on December 27, 2020, makes it unlawful, for the duration of the ongoing novel coronavirus (COVID-19) public health emergency, for any person, partnership, or corporation to engage in a deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), that is associated with the treatment, cure, prevention, mitigation, or diagnosis of COVID-19. COVID-19 Consumer Protection Act of the 2021 Consolidated Appropriations Act, Pub. L. No. 116-260, Title XIV, § 1401(b)(1).

16. A violation of Section (b)(1) of the COVID-19 Consumer Protection Act is treated as a violation of a rule defining an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the FTC Act, 15 U.S.C. § 57a(a)(1)(B). COVID-19 Act, § 1401(c)(1).

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