

CODEX ALIMENTARIUS COMMISSION



**Food and Agriculture
Organization of
the United Nations**



**World Health
Organization**

Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - Fax: (+39) 06 5705 4593 - E-mail: codex@fao.org - www.codexalimentarius.org

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**AHPA
AMERICAN HERBAL PRODUCTS ASSOCIATION**



**AMERICAN
HERBAL PRODUCTS
ASSOCIATION**

BYLAWS

APPROVED BY THE MEMBERSHIP

September 2007

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These Bylaws have been prepared as a management tool for the American Herbal Products Association staff, volunteers and members. The American Herbal Products Association is not responsible for any errors contained herein or for consequences arising from the use and/or application of these Bylaws, either internally or externally.

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ARTICLE I

Name & Incorporation

The name of the Association is The American Herbal Products Association, Inc. (hereinafter referred to as "AHPA" or "the Association"). AHPA is a nonprofit Corporation chartered under the laws of the State of Maryland and under section 501(c)(6) of the Internal Revenue Code.

ARTICLE II

Definitions

The term "Herbal Products" means a product containing or derived from one or more botanical that is traditionally or currently used for a savory, aromatic, or functional quality or as a therapeutic or medicinal substance, dietary supplement or cosmetic.

The term "Herbal Products Industry" includes all those individuals, sole proprietors, partnerships, corporations (and their subsidiaries and subdivisions) or other business firms whose activities to a significant extent involve the growing, supplying, processing, manufacturing, or marketing of herbs or other botanicals and/or herbal products.

ARTICLE III

Mission

The Mission of the American Herbal Products Association is to promote the responsible commerce of Herbal Products.

ARTICLE IV

Membership

Section 1: Application for Membership

Any entity (e.g., sole proprietor, partnership, corporation, etc.) eligible for membership under these Bylaws must apply for membership by submitting a written application form provided by the Association and signed by an authorized representative of the applicant. Payment of annual dues for the current fiscal year and in conformity with Article VI, Section 1 must accompany the application. Provided applicable dues are paid and upon approval as determined in conformity with all Association policies that govern such approval, such applicant shall become a member of the Association. Membership shall continue until such time as the member resigns, as defined in Article IV, Section 8 or is suspended or expelled as defined in Article IV, Section 7 or does not make annual dues payments as defined in Article VI, Section 1.

Section 2: Title to Membership

Membership in AHPA belongs to a business entity (e.g., sole proprietor, partnership, corporation, etc.) and not to the individual representing that business entity. Membership in the Association is not transferable or assignable.

Section 3: Obligations of Membership

Members are obligated to support the mission, goals and objectives of the Association. Such support includes payment of all dues and properly approved assessments; adherence to all policies and principles of business practice as outlined in the Association's Bylaws and Code of Ethics &

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Business Conduct, and to any rule or practice properly adopted by the Association; and restraint from any conduct prejudicial to the interests of the Association.

Section 4: Classes of Membership

There are two classes of members in the Association: Active members and Associate members.

ACTIVE MEMBERS: All entities directly engaged in the Herbal Products Industry, as defined in Article II above, are eligible to become Active members of this Association. No entity that is eligible to be an Active member may join the Association as an Associate member.

ASSOCIATE MEMBERS: All entities not directly engaged in, but serving the Herbal Products Industry, as defined in Article II above, are eligible to become Associate members of this Association. This membership category includes, but is not limited to: researchers, educators, consultants, attorneys, healthcare professionals and the media.

Section 5: Multiple Memberships

A business entity substantially owned or controlled by an existing member and which is otherwise qualified for its own membership may become an AHPA member, but its powers may be limited by these Bylaws.

Section 6: Members in Good Standing

A member in good standing is an Active or Associate member who has paid all required fees and dues and is not suspended, expelled or resigned.

Section 7: Suspension, Expulsion & Reinstatement of Membership

AUTOMATIC SUSPENSION FOR NON-PAYMENT OF DUES: Any member who is in default in the payment of dues or any mandatory assessment for a period of sixty (60) calendar days after such dues or such assessment becomes payable is automatically suspended from membership. Any member so suspended shall, until reinstated, forfeit all rights and privileges of membership in the Association; provided, however, that suspension shall not relieve a member from the requirement of fulfilling all obligations to the Association theretofore incurred. A suspended member shall be reinstated to good standing upon payment in full of all dues and other amounts owing and payable at the time of suspension and reinstatement.

EXPULSION: Any member may be expelled for just and reasonable cause. Just and reasonable cause shall include any violation of these Bylaws, the *Code of Ethics & Business Conduct*, or any agreement, rule or practice properly adopted by the Association, or any conduct prejudicial to the interests of the Association. Proceedings to expel a member may be initiated only by the action of the Board of Trustees or the Executive Committee. No decision to suspend or expel a member may be made until at least fifteen (15) calendar days after a Statement of Charges has been sent by the Association, by any medium that will certify the receipt of the Statement of Charges, to the last recorded address of the member. A notice of the place and time of the meeting of the Board of Trustees at which the charges will be considered shall accompany the Statement of Charges. The member's representative(s) shall be provided the opportunity to present to the Board any defense to the Statement of Charges before action is taken thereon by the Board. Such expulsion shall be by two-thirds (2/3) vote of the Board of Trustees present at a duly constituted meeting of the Board as defined in Article IX. Expulsion shall not entitle the member to any refunds of any type or in any amount.

In the case of expulsion, the member shall have the right to re-apply for membership in accordance with these Bylaws and upon proof that the previous action that resulted in expulsion has been

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modified so the member no longer violates AHPA's Bylaws, *Code of Ethics & Business Conduct*, or any agreement, rule or practice properly adopted by the Association, or that the member's conduct is no longer prejudicial to the interests of the Association.

Section 8: Resignation of Membership

Any member in good standing may resign from the Association by submitting written notice of such intention to the Association's office. Resignations are effective on the date of the member's notice of resignation or any date specified by the member that is prior to the member's annual renewal date. Resignations shall not entitle the member to any refunds of any type or in any amount. A resignation shall not relieve the member of any obligations to pay any dues, assessments, or other charges that had accrued and were unpaid prior to the effective date of the resignation.

ARTICLE V

Member Voting Rights & Procedures

Section 1: General

AHPA Active members in good standing are authorized by these Bylaws and by the Association's *Code of Ethics & Business Conduct* to vote on the following issues: election of Elected Trustees in conformity with Article IX, Sections 5 and 6; amendments to the member dues structure as described in Article VI, Section 1; mandatory assessments as defined in Article VI, Section 2; amendments to the Bylaws in conformity with Article XVII, and amendments to the Association's *Code of Ethics & Business Conduct*.

Only Active members in good standing shall have a right to vote on each of the specific issues for which members are authorized to vote. Each Active member shall be entitled to only one vote on any issue submitted to a vote of AHPA's members.

Voting shall be conducted by secret ballot. Voting may be conducted at any meeting of the Association or by mail, fax, electronic mail or other appropriate medium vote, as defined by Article V, Section 3. All votes shall be conducted in accordance with these Bylaws and duly adopted policies of the Association.

Whenever any issue is voted on by the Active members it shall be authorized by a simple majority of the votes cast by a quorum of the members, as defined in Article VII, Section 4; except that election of Trustees shall be held in accordance with the Election Policies defined in Article IX, Sections 5 and 6; and except a two-thirds (2/3) majority shall be required to authorize any mandatory assessment as defined in Article VI, Section 2, and any amendments to the Bylaws as defined in Article XVII.

Section 2: Votes Conducted At Member Meetings

When voting is conducted at a meeting of the Association, votes may be cast directly by a member's representative, or by written proxy, or by absentee ballot. All AHPA Active members in good standing shall be provided by mail, fax, electronic mail, or other appropriate medium, not later than thirty (30) days prior to the date of the meeting, with material to adequately describe the issue or issues that are the subject of voting as well as proxy forms and absentee ballots.

Any Active member in good standing may assign its vote by written proxy to any other Active member in good standing by completing a proxy authorization in a manner that is timely and in conformity with AHPA voting policies. The person who is authorized to exercise a proxy may not exercise the proxy unless it is exercised no later than the votes cast directly by members. The

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Secretary or other person charged with recording the vote shall record both the name of the person who authorized the proxy on behalf of the member and the name of the person who exercises the proxy. If the member representative who authorized a proxy personally attends the meeting at which the vote that is the subject of the proxy is scheduled, they may, at their sole discretion, rescind their authorization and cast their vote directly. A duly authorized proxy is only valid for the particular vote for which it was authorized.

When a vote is cast by absentee ballot, it may be returned by the voting member by mail, fax, electronic mail, or any other appropriate medium. Members will be informed of the date on which an absentee ballot must be received in the AHPA office in order to qualify as a duly cast vote, such date to be determined at the sole discretion of AHPA's administrative staff and not to exceed seven (7) days prior to the date of the meeting of the Association at which the actual vote will occur. In the event that an absentee ballot has been received timely by the AHPA office and a representative of the member who has cast that absentee ballot personally attends the meeting at which the vote that is the subject of the absentee ballot is scheduled, the member will not be allowed to cast their vote directly.

Section 3: Votes of the Members Conducted By Mail, Fax, Electronic Mail Or Other Appropriate Medium

Whenever, in the judgment of the Board of Trustees, any question shall arise which it considers should be put to the vote of the Active members, and when it deems it inexpedient to call a special meeting for such purpose, the Board of Trustees may, unless otherwise required by these Bylaws, submit such matter to the membership in writing for vote by mail, fax, electronic mail or other appropriate medium vote. The question thus presented shall be determined according to either a simple majority or a two-thirds (2/3) majority, depending upon the matter that is the subject of the vote and in accordance with the majority requirements established in Section 1 of this Article, of the votes received in writing within 30 calendar days after such submission to the membership. This is provided that in each case, votes of a quorum of the voting members shall be received. Any and all action taken in pursuance of a majority vote in each such case shall be binding upon the Association and upon each member thereof.

ARTICLE VI Dues and Assessments

Section 1: Dues

Annual dues for members will be set by the Board of Trustees with the approval of a simple majority of a quorum of the Active members in good standing at a duly constituted meeting of the Association or by mail, fax, electronic mail or other appropriate medium vote, such voting to be conducted in conformity with Article V.

Dues payments shall be for the fiscal year for which they are billed. Annual dues are payable on a schedule that is in conformity with association policies. Dues shall be based on annual U.S. domestic sales of Herbal Products, as defined by Article II, and as certified annually by each member and according to the current dues schedule. Dues are non-refundable.

Any member who is in excess of sixty (60) days behind in payment of dues is automatically suspended, as defined in Article IV, Section 7 and shall not be entitled to any benefits or rights of membership.

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Section 2: Assessments

Mandatory assessments may be levied by the Association upon its members only upon approval of a two-thirds (2/3) majority of a quorum of the Active members in good standing at a duly constituted meeting of the Association, or by mail, fax, electronic mail or other appropriate medium vote, such voting to be conducted in conformity with Article V.

ARTICLE VII

Meetings of Members

Section 1: Annual Member Meeting

There shall be an Annual meeting of the Association, which is a regular meeting of the Association. At the Annual meeting, the Active members shall conduct an election for Elected Trustees, as defined in Article IX, Section 2, receive annual reports of the business of the Association, and transact other business that may come before the meeting.

In order to elect Trustees or to transact any other business that requires a vote of the Active members in good standing at an Annual meeting, a quorum, as defined in Article VII, Section 4, must be present; except that, in the absence of a quorum, the election of Trustees may be adjourned and completed in conformity with the procedures described in Article IX, Section 6.

Section 2: Other Regular Member Meetings

Other regular meetings may be called by the Board of Trustees, at their discretion, as deemed necessary or for the benefit of AHPA. In order to transact any business that requires a vote of the Active members in good standing at a regular meeting, a quorum, as defined in Article VII, Section 4, must be present.

Section 3: Special Member Meetings

Special meetings of the Association may be called by a majority of the Board of Trustees or of the Executive Committee, or upon the written request of forty percent (40%) of the Active members in good standing of the Association, or in conformity with Article IX, Section 8. Special meetings are called to address a specific subject(s), and nothing but that specific subject(s) shall be considered at that meeting. The Board of Trustees may designate the time and place of any Special meeting in conformity with any other requirements of these Bylaws or Association policies.

Section 4: Membership Quorum

Twenty five percent (25%) of the Active membership in good standing shall constitute a quorum of the Association's Active members.

At any meeting of the Association all members represented by physical attendance, or by proxy, or by absentee ballot shall be considered to be in attendance at a meeting for purposes of determining the presence of a quorum, such that the number of members in attendance at a meeting shall be the sum of those members represented at the meeting by physical attendance, and by proxy, and by absentee ballot. A quorum need not be present at any meeting in order to transact business but must be met when conducting voting or amendments to the Bylaws.

When a vote is conducted by mail, fax, electronic mail, or other appropriate medium in conformity with Article V, Section 3, all votes received shall be counted toward the presence of a quorum.

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Section 5: Notice of Meetings of the Members

Written notice of all meetings of members shall be delivered to each member not less than thirty (30) calendar days before the date of the meeting. Notice shall be delivered by mail, fax, electronic mail or other appropriate medium. Notice of the meeting shall state the place, day and time of the meeting, the general and/or specific purpose(s) for which the meeting is called, and, if any of the purposes of the meeting will require a vote of the Active members in good standing, the Notice shall include a proxy and an absentee ballot for each such Active member. Notice shall be deemed to be delivered at the time the notice is dispersed to the membership.

ARTICLE VIII

Management of the Association

The Association shall be managed by its President, who is an employee of the Association. The Association President shall be responsible for supporting the Board in its policymaking role and for establishing, executing and supervising the Association's annual operating plan and budget, including the hiring, supervision, and remuneration of staff and agents of the Association, within the parameters of the Board-approved budget. In addition, the President of the Association shall sit *ex officio* without vote on both the Board of Trustees and on the Executive Committee.

ARTICLE IX

Board of Trustees

Section 1: Board Governance & Duties

The Association shall be governed by a Board of Trustees who shall be appointed or elected in conformity with these Bylaws. The general oversight of the affairs, business and concerns of the Association shall be vested in the Board of Trustees, whose duties shall be carried out at duly regularly scheduled meetings and at other such times as provided by these Bylaws, except that, between regularly scheduled meetings of the Board, the Executive Committee, as defined in Article X, Section 3, shall be responsible for oversight of the Association.

The Board of Trustees shall have control of the affairs of the Association, with authority to engage, discharge, and fix the salary of the Association President and, in the absence of a President, all other employees and agents of the Association; to admit, suspend or expel members; to formally approve all operating budgets desirable in the conduct of the business of the Association; to establish trade recommendations as amendments to the Association's *Code of Ethics & Business Conduct*; and to establish or recommend additional policies and guidelines that are consistent with the Association's Mission.

All actions before the Board shall be decided by majority vote in the presence of a quorum of the Board, as defined in Section 11 of this Article, at a duly constituted meeting of the Board; or by majority vote in the presence of a quorum of the Executive Committee, as defined in Article X, Section 3, at a duly constituted meeting of the Executive Committee. In all voting discussed in this Section abstentions are not counted as votes cast. The act of the majority of the Trustees at a meeting at which a quorum is present shall be the act of the Board, except as otherwise specified in these Bylaws. Additionally, a Board action may be taken without a meeting, by written vote via mail, fax, electronic mail or other appropriate medium, if all members of the Board consent to such action. Such consent shall have the same force and effect as a unanimous vote of the Board of Trustees and shall be filed with the Association Minutes.

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Trustees shall discharge their duties in accordance with the Association's Bylaws and *Code of Ethics & Business Conduct*, in good faith, with ordinary care, and in a manner they reasonably believe to be in the best interest of the Association. Ordinary care is care that ordinarily prudent persons in similar positions would exercise under similar circumstances. In the discharge of any duty imposed or power conferred on Trustees, they may in good faith rely on information, opinions, reports, or statements (including financial statements and other financial data) concerning the Association or another person that was prepared or presented by others.

Section 2: Board Composition

The Board of Trustees shall consist of two classes of Trustees, those that are appointed ("Appointed Trustees") and those that are elected ("Elected Trustees"). The Elected Trustees shall include two (2) Trustees who are designees of Active members who are "small business members," defined here to mean those Active members that are not excluded by the Restrictions on Membership to the Small Business Committee as such restrictions are stated in the Board approved Charter of that Committee. Trustees of both classes are individual persons for all purposes bearing on service as a Trustee.

Any Active member in good standing may fill a seat on the Board of Trustees by appointment by paying dues within a single fiscal year to the Association in an amount greater than or equal to the highest maximum dues level for the Association's Active members, as established by the Association's current dues. Revenues paid to the Association related to the activities of a Special Committee, as defined in Article XII, Section 1, shall not accrue toward determining the level of dues paid to the Association. Any seat filled in this manner may be filled at any time that the dues payment condition described here has been fully met. Such a Trustee shall be identified as an Appointed Trustee and the Board seat filled by an Appointed Trustee shall be identified as an Appointed seat.

Active members in good standing shall elect Trustees at the Annual meeting of the Association and in conformity with Article V and Article XI, Sections 5 and 6. Trustees elected by the membership shall be identified as Elected Trustees and the Board seat filled by an Elected Trustee shall be identified as an Elected seat.

Except for the different manners of obtaining Board seats, there shall be no difference in the rights or obligations of an Appointed or an Elected Trustee.

Section 3: Board Size

The number of Elected Trustees as of the completion of an annual election of Trustees shall be the number that is the greater of (i) a minimum of twenty-two (22), or (ii) one and one-half times, rounded up to the nearest whole number, the number of Appointed Trustees as of the date ninety (90) calendar days prior to the annual election of Trustees. The number of Appointed Trustees shall be that number filled by Active Members in conformity with Section 2 of this Article; there shall be no minimum or maximum number of Appointed Trustees.

Section 4: Trustee Eligibility

An Appointed Trustee and a candidate for a seat on the Board as an Elected Trustee may be any designee of any Active member in good standing. All Appointed Trustees and Elected Trustee candidates must be officially nominated or designated in writing by that Active member as the member's nominee or designee for the Board. Once appointed or elected to the Board of Trustees, that individual will serve his/her term of office unless he/she is removed as prescribed in Article IV, Section 7 and Section 8.

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Not more than one (1) representative from any member company shall be eligible to serve as a Trustee of the Association at any one time. For this purpose, the subsidiaries, subdivisions and entities owned or controlled by one (1) member company will not be permitted to serve as a Trustee if the appointment or election of said subsidiary, subdivision or entity gives those related member companies more than two (2) representatives on the Board between them.

The policies and procedures for qualifying candidates for Elected seats shall be recommended by the Finance and Governance Committee and approved by the Board of Trustees, and such candidates shall be required to submit written applications for their candidacy and other documentation as is required by any such approved policies and procedures. The Finance and Governance Committee shall not unreasonably withhold the certification of candidates and shall treat all candidates equally and fairly.

Section 5: General Trustee Appointment and Election Procedures

A Finance and Governance Committee shall be duly chartered as a standing committee by the Board of Trustees and maintained by the Association. The responsibilities and authority of the Finance and Governance Committee include, but are not necessarily limited to the responsibilities and authority described in this Section.

The policies and procedures for all elections and appointments to the Board, including the election and appointment of Trustees and the election of Board officers and additional members of the Executive Committee shall be recommended by the Finance and Governance Committee and approved by the Board of Trustees. The Finance and Governance Committee shall certify the number of Board seats available for Elected Trustees at each annual election of Trustees and shall administer all election processes.

Elected Trustees shall be elected only by Active members in good standing at the Annual meeting of the Association. Elected Trustees shall consist of those candidates who had the greatest number of votes until all open Elected seats have been filled.

Section 6: Trustee Election Procedures in the Absence of a Quorum of Active Members

If a quorum is not present at the Annual meeting of the Association, those Active members in attendance, whether physically, by proxy, or by absentee ballot, shall cast their votes for election of Trustees. The election shall then be adjourned for two (2) calendar weeks during which time all Active members who have not yet voted will be informed the election has been adjourned and will be encouraged to submit their votes by mail, fax, electronic mail or other appropriate medium. If at the end of this two week period or any other two week period in the election adjournment process a quorum has still not been met the election shall be adjourned for an additional two (2) calendar weeks and the same process shall be repeated, until such time a quorum has been met.

Votes cast for an election of Trustees at a meeting at which a quorum is not present or in any of the two week adjournments described herein shall not be counted until the last day of the two week adjournment in which a quorum has been achieved, on which date the election shall be considered to have been completed.

In the event that a quorum is not present at the Annual meeting of the Association and notwithstanding that certain Trustees, officers, and members of the Executive Committee will have reached the end of their terms as of the date of that meeting, until such time as an election has been completed as described herein, the Board of Trustees, officers, and members of the Executive Committee shall consist of the same Trustees who served as Trustees and in such positions at the beginning of the election process.

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Section 7: Trustee Term of Service and Term Limits

Appointed Trustees shall serve for one year effective the date of their appointment and may be re-appointed by fulfilling the obligations as stated in Article IX, Section 2.

Elected Trustees shall serve for a three (3) year term, which ends at the third Annual meeting of the Association following their election, except that, in the event a quorum is not present at the Annual meeting of the Association, the term of any Elected Trustee who has reached the end of his/her term as of the date of that meeting shall be extended until such time as the annual election for Elected Trustees has been completed as described in Section 6 of this Article.

There are no limits placed on service by any Trustee so long as the member company represented by the Trustee is an Active member in good standing as defined in Article IV, Section 6 and so long as the Trustee maintains his/her status as the member's designee and has not been otherwise removed in accordance with Section 8 of this Article or Article IV, Section 7.

Section 8: Removal of Trustees

If a majority of the Board of Trustees in any meeting authorized by the Bylaws determines that a current Trustee is no longer the designee of an Active member company, or if AHPA staff is so notified, then the Trustee shall be removed as the date of such determination or notification.

A Trustee may also be removed and replaced at any time by members with or without cause. Upon receipt of petitions for removal signed by no less than 51% of Active members in good standing, a Special meeting of members shall be called at which the Trustee shall be given the opportunity to be heard and to present evidence. In the presence of a quorum, as defined in Article VII, Section 4, a vote of the Active members in attendance, as defined in Article VII, Section 4, shall then ensue and the Trustee shall be removed if the vote for removal is equal to 51% or more of all Active members voting at the meeting. In the absence of a quorum at the Special meeting described herein, the Trustee may not be removed.

Additionally, if a Trustee is absent from more than 50% of two consecutive meetings of the Board, he or she is automatically removed as a Trustee subject to reinstatement for cause shown. For purposes of this Section, attendance by appropriate telecommunication medium will not be considered an absence the first time it occurs in any one-year period that begins on the anniversary date of the Trustee's appointment or election, and will be considered an absence any other time it occurs during that period.

Also, if a Trustee fails to attend at least one meeting in person in any one-year period that begins on the anniversary date of the Trustee's appointment or election, he or she is automatically removed as a Trustee subject to reinstatement for cause shown.

Section 9: Trustee Vacancies

A seat on the Board of Trustees becomes vacant when a Trustee resigns, when the Active member represented by a Trustee informs the Association, in writing, that the Trustee is no longer their designee or when a Trustee is removed in accordance with Section 8 of this Article above or for other good cause.

In the case of a vacancy in an Appointed seat, Trustee vacancies may be filled by the Active member that was represented by that Trustee. In the case of a vacancy in an Elected seat, Trustee vacancies may be filled by the Active member that was represented by that Trustee. In either case, the Active member may only fill the vacant seat by naming, in writing, another designee who is otherwise qualified.

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An Elected seat that becomes vacant and filled as prescribed in this Section shall be considered vacant, and therefore subject to election, (i) at the first Annual meeting of members following the vacancy if the vacancy occurs after an Annual meeting of members and before the deadline for declarations of candidacy for election to the Board at the next scheduled Annual meeting, or (ii) at the second Annual meeting of members following the vacancy if the vacancy occurs after the deadline for declarations of candidacy for election to the Board at the next scheduled Annual meeting and before the next scheduled Annual meeting. In either of these options, the deadline for declarations of candidacy for election to the Board shall be the date established by current election policy.

Section 10: Trustee Substitutes at Meetings of the Board

If a Trustee is unable to attend a meeting of the Board, the member company represented by the Trustee has the option of appointing a substitute for that meeting, which substitute shall bear the full duty and authority of the Trustee, including the right to vote on all matters before the Board, and which substitute shall count toward the presence of a quorum.

Attendance of a substitute at a meeting of the Board of Trustees shall not be considered to be attendance by the substituted Trustee, such that the Trustee will be considered absent from the meeting for purposes of Section 8 of this Article.

Section 11: Board of Trustee Quorum

BOARD MEETING: A simple majority of the Board shall constitute a quorum. For purposes of determining the presence of a quorum, any Trustee vacancy that has not been filled in accordance with Section 9 of this Article at the time that a meeting of the Board is called to order shall be excluded when determining the total number of Trustees that currently constitute the Board. A quorum is required to be present either in person or by appropriate telecommunication medium in order to call to order a duly constituted meeting of the Board. A Trustee in attendance by appropriate telecommunication shall have all of the rights and responsibilities as Trustees who are in attendance in person. The Trustees present at a duly constituted meeting at which a quorum is initially present may continue to transact business even if less than a quorum remains. However, no actions may be approved by the Board in the absence of a quorum.

Section 12: Remuneration

Trustees will receive no remuneration whatsoever for their services as Trustees but may be recompensed for expenses incurred with approval by the Board of Trustees.

Section 13: Conflict of Interest

Trustees shall have an affirmative duty to disclose any material conflict or potential conflict of interest in any manner under consideration by the Board. Unless requested otherwise, they must absent themselves from such deliberation or decision.

ARTICLE X

Board Officers and Executive Committee

Section 1: Officer Positions

The officers of the Association shall be a Chair, a Vice Chair, a Secretary and a Treasurer. The Board of Trustees may create additional officer positions, define the authority and duties of each such position, and elect or appoint persons to fill these positions.

CHAIR: The Chair shall preside at the meetings of the Association and of the Board of Trustees and shall be a member *ex officio*, with right to vote, of all committees. She or he shall perform the duties as are necessarily incident to the office of Chair of the Association or as may be prescribed by the Bylaws and Board of Trustees.

VICE CHAIR: When the Chair is absent, is unable to act, or refuses to act, or if the Trustee who was duly elected as the Chair is the subject of a vacancy as defined in Section 4 of this Article, the Vice Chair shall perform the duties of the Chair. When the Vice Chair acts in place of the Chair, the Vice Chair shall have all the powers of and be subject to all the restrictions upon the Chair.

In the absence of the Chair and the Vice Chair at a meeting of the Board, the Trustees present shall choose a Chairperson for the meeting. If both the Chair and Vice Chair are absent, the Board of Trustees shall appoint a member of the Board to act as Chair *pro tem*. The Chair *pro tem* shall have all the powers of and be subject to all the restrictions upon the Chair.

SECRETARY: The Secretary shall act as Corporate Secretary of the Association and shall perform all the statutory and customary duties of the office, including overseeing the maintenance of the membership records, the serving of notices and the keeping of Minutes of all meetings of members and the Board. The Secretary shall also serve as the Board representative on the Finance and Governance Committee.

TREASURER: The Treasurer shall perform all the statutory and customary duties of the office and shall oversee the filing of all required financial reports and returns. A yearly accountant's review of the books of the Association shall occur. The Treasurer, or any person entrusted with the handling of funds or property of the Association, shall, at the discretion of the Board of Trustees, furnish, at the expense of the Association, a fidelity bond approved by the Board, in such sum as the Board shall prescribe. The Treasurer shall report on the financial condition of the Association at its Annual meeting and at meetings of the Board of Trustees, when required.

Section 2: Election of Officers

A regular meeting of the Board of Trustees shall follow the completion of the annual election process. At this meeting, the Board of Trustees shall elect from among themselves the officers as defined in Article X, Section 1. The election of officers shall be conducted in the following order: first, the Board shall elect the Chair, who shall immediately upon election take on the duties of the Board Chair; second, the Board shall elect the Vice Chair; third, the Board shall elect the Secretary; and fourth, the Board shall elect the Treasurer. Any other officers created in conformity with this Article shall be elected in any order. Officers shall be elected by majority vote of the Board of Trustees. Elected officers shall hold office for a term of one (1) year and may continue to run for office every year. The election of officers shall be conducted by the procedures in Article V, Section 1.

For purposes of serving as an officer, there shall be no distinction between the two classes of Trustees, as defined in Article IX, Section 2, except that, after the Board has elected the Chair from either class, only candidates from the other class of Trustees shall be eligible to be elected as Vice

BYLAWS OF THE AMERICAN HERBAL PRODUCTS ASSOCIATION
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Chair for that same term so long as at least one candidate from that other class is willing to serve as Vice Chair for that term.

Section 3: Executive Committee

The Board of Trustees shall elect from amongst themselves three (3) additional members who shall serve, along with the officers, as the Association's Executive Committee. The Executive Committee shall be responsible for oversight of the Association between regularly scheduled meetings of the Board.

A meeting of the Executive Committee may be called by the Association President, the Chair, or any other two (2) members of the Committee, and may be conducted by any appropriate communication medium. Notice of a meeting of the Committee shall be made to all of the members of the Committee and to the Association President. A quorum of the Executive Committee shall consist of not less than four (4) of its members.

The act of the majority of the Executive Committee at a meeting of the Committee at which a quorum is present shall be the act of the Board of Trustees, except as otherwise specified in these Bylaws. Additionally, an action may be unanimously taken by the Executive Committee without a meeting, by written vote via mail, fax, electronic mail or other appropriate medium, if all members of the Committee consent to such action. Such consent shall have the same force and effect as a unanimous vote of the Board of Trustees and shall be filed with the Association Minutes.

All actions taken by the Executive Committee shall be considered for approval by the Board of Trustees at its next scheduled meeting.

Section 4: Vacancies on the Executive Committee

Any vacancy on the Executive Committee, including officer vacancies, may be filled by the Board of Trustees or by the remaining members of the Executive Committee for the unexpired portion of the Committee member's term. Vacancies may be filled at any meeting of the Board or of the Executive Committee. Any Trustee who fills any office or Executive Committee vacancy shall have all the powers of and be subject to all the restrictions on such position.

Notwithstanding the right of member companies to fill a Trustee vacancy in conformity with Article IX, Section 9, neither a Trustee who is a member of the Executive Committee, including Board officers, nor a member company represented by such Trustee shall have the right to fill a vacancy or appoint a substitute to the Executive Committee for any purpose whatsoever.

ARTICLE XI
Indemnification and Exoneration

Section 1: Indemnification

The Association shall indemnify its Trustees, officers and employees for all claims and liabilities, including reasonable expenses and attorney's fees, to which they may be subject by reason of such positions with the Association, to the fullest extent permitted by Maryland law and for organizations which are exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code. Indemnification or reimbursement shall be made only if it is determined the Trustee or employee acted in good faith and in the reasonable belief the action that is the basis for such claim or liability was in the best interest of the Association. If this determination is not made in a legal proceeding related to the claim or liability, it shall be made by the Board of Trustees in accordance with the laws of Maryland.

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Section 2: Exoneration

To the fullest extent permitted by Maryland law and for organizations which are exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code, no Trustee, officer or employee of this Association shall be personally liable to the Association or its members for monetary damages except in the case of fraud, embezzlement or any other form of conduct that constitutes a crime under the laws of Maryland and which causes the Association to incur a monetary loss. No amendment of the Articles of Incorporation or repeal of any of its provisions shall limit or eliminate the benefits provided to Trustees, officers and employees under this provision with respect to any act or omission which occurred prior to such amendment or repeal.

Section 3: Insurance

The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, employee or agent of the Association, or who, while a Trustee, officer, employee or agent of the Association is or was serving any other entity at the request of the Association, and in any capacity, against any liability, asserted against and incurred by such person in any such capacity or arising out of such person's position, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

Section 4: Miscellaneous Provisions

Except to the extent prohibited by law, the indemnification provided by this Article shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under the Articles of Incorporation, and Bylaws, agreements, votes of disinterested Trustees or otherwise, both as to action in the Trustee's official capacity and as to actions in any other capacity while holding office, and shall continue as to a person who has ceased to be a Trustee or officer, employee or agent of the Association and shall inure to the benefit of the heirs, executors, or administrators of such persons.

ARTICLE XII

Committees

Section 1: Committees

Any committee deemed necessary or desirable by the Board of Trustees shall be appointed by the Board of Trustees. There shall be two categories of committees, Standing Committees and Special Committees, and all committees shall be chartered and managed in conformity with policies established by the Board of Trustees.

Standing Committees are defined as permanent and broad in scope, and exist to address issues that affect a wide representation of the membership. Standing Committees may be funded by general funds or special assessments, as appropriate, and in conformity with these Bylaws and the Association's financial policies.

Special Committees are chartered to address the needs of a specific sub-group of AHPA's members or to deal with a specific issue or group of issues. The budgets for Special Committees are provided from funds generated by the members of the Committees, unless the Board determines general funds should be available. A Special Committee's accounts payable may never exceed that Committee's cash on reserve in an AHPA account. All accounting for Special Committees is managed by AHPA.

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The Board of Trustees may not assign to any committee any authority that is assigned by these Bylaws to the Board, and committees do not have any such authority. The authority of all committees is limited to making recommendations to the Board of Trustees, such recommendation subject to adoption or rejection by action of the Board, and to carrying out the work of the Association in a manner that is consistent with and within the confines of each committee's Charter as approved by the Board of Trustees. Committees are explicitly prohibited from establishing any policies for the Association or for any segment of the Association. Committees are explicitly prohibited from making statements or representations on behalf of the Association without the explicit approval of the Board of Trustees.

Section 2: Eligibility

Any AHPA member is eligible to serve on any committee, except that membership on the Executive Committee is determined by election as defined in Article X, Section 3, and except that any committee may include a restriction on membership in its Charter subject to approval by the Board of Trustees. The Board of Trustees shall appoint all committee chairpersons. All committee members serve at the pleasure of the Board of Trustees.

ARTICLE XIII

Inspection of Corporate Records

These Bylaws, the membership roster, the books of accounts and the Minutes or proceedings of meetings of the Association, of the Board of Trustees and of the Committees shall be open to inspection no later than (10) days after receipt of a written request, addressed to the Chair or the Secretary of the Association by any member of the Association for any purpose reasonably related to its interests as a member. Such records also shall be made available for the same purpose at any Board of Trustees meeting when requested by at least three (3) Trustees. Inspection may be made in person or by an authorized agent or attorney and inspector includes the right to make extracts at the member's expense.

ARTICLE XIV

Dissolution and Waiver of Interest

Section 1: Dissolution

In the event of dissolution of the Association, all assets of the Association shall be distributed among the members in proportion to the membership dues paid by the members in the preceding three (3) years. Nothing in this Article represents any financial obligation on the Association to the members other than the specific distribution of assets described herein, and there is no obligation on the Association to reimburse members for dues paid for the services that would have been provided by the Association if dissolution had not occurred.

Section 2: Waiver of Interest in Association Property

All real, personal and intellectual property acquired by the Association shall be owned by AHPA. No member shall have any interest in any of the property of the Association. Each member hereby expressly waives the right to require partition of all or part of the Association's property.

ARTICLE XV
Non-Discrimination

The organization's, officers, Trustees, employees and persons served by this Association shall be selected in a non-discriminatory manner with respect to age, sex, race, color, national origin, and political or religious opinion or affiliation.

ARTICLE XVI
Antitrust Policy

All members of the Association will abide by an antitrust policy which shall be in conformity with all laws and regulations related to such a policy and which shall be approved by the Board of Trustees.

ARTICLE XVII
Amendments to Bylaws

These Bylaws may be amended, repealed or altered, in whole or in part, upon approval of a two-thirds (2/3) majority of a quorum of the Active members in good standing at a duly constituted meeting of the Association or by mail, fax, electronic mail or other appropriate medium vote, such voting to be conducted in conformity with Article V.

ARTICLE XVIII
Referenda/Grassroots Initiatives

Active members in good standing may initiate petitions to put an amendment to the Bylaws or other initiatives (other than the removal of a Trustee) before the general membership for vote without the approval of the Board of Trustees. To do so, the member must file with the Board a written petition setting forth the request and the reasons therefore, along with the signatures of twenty percent (20%) of the membership endorsing the petition.

ARTICLE XIX
Fiscal Year

The fiscal year of the Association shall begin on the first day of January and end on the last day of December of each year.

ARTICLE XX
Miscellaneous Provisions

Section 1: Legal Authorities Governing Construction of Bylaws

The Bylaws shall be construed in accordance with the laws of the State of Maryland. All references in the Bylaws to statutes, regulations or other sources of legal authority shall refer to the authorities cited, or their successors, as they may be amended from time to time.

Section 2: Legal Construction

If any Bylaw provision is held to be invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect any other provision, and the Bylaws shall be construed as if the invalid, illegal or unenforceable provision had not been included in the Bylaws.

ARTICLES OF INCORPORATION

OF

AMERICAN HERBAL PRODUCTS FOUNDATION, INC.

THE UNDERSIGNED, all of whom are eighteen (18) years or older, for the purpose of forming a nonstock corporation under the general laws of the State of Maryland hereby certify:

FIRST. The name of the Corporation is: American Herbal Products Foundation, Inc.

SECOND. The duration of the Corporation shall be perpetual.

THIRD: The Corporation is organized and shall be operated exclusively to perform the charitable, scientific, and educational functions of the American Herbal Products Association, Inc. consistent with § 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986, as now in effect or as may hereafter be amended ("the Code").

FOURTH: The address of the principal office of the Corporation within the State of Maryland is 4733 Bethesda Avenue, Suite 345, Bethesda, Maryland 20814.

FIFTH: The name of the registered agent of the Corporation is Jeffrey Morrison, an individual resident of the State of Maryland, and the address of the registered office is 4733 Bethesda Avenue, Suite 345, Bethesda, Maryland 20814.

SIXTH: The Corporation has no authority to issue capital stock.

SEVENTH: The Corporation shall have no members.

EIGHTH: The Corporation shall be managed by a Board of Directors.

All Directors shall be appointed by the Board of Directors of the American Herbal Products Association. The minimum number of Directors shall be nine (9). The names of the Directors who are to serve until their successors are appointed and qualify are as follows:

Michael McGuffin
McZand Herbal, Inc.
P.O. Box 5312
Santa Monica, CA 90409

Daniel Gagnon
Herb's Etc., Inc.
1340 Rufina Circle
Santa Fe, NM 87501

Grace Lyn Rich
Nature's Herbs
600 East Quality Drive
American Fork, UT 84003

Lon Johnson
Trout Lake Farm
149 Little Mountain Road
Trout Lake, WA 98650

Kay Wright
Celestial Seasonings, Inc.
4600 Sleepytime Drive
Boulder, CO 80301

Fran Ertl
Bontanicals Internationals
2550 El Presidio Street
Long Beach, CA 90810-1193

Jeff Hinrichs
Nutraceuticals Corporation
1104 Country Hills Drive #300
Ogden, UT 84403

Rory Mahony
Nature's Way Products
P.O. Box 4000
Springville, UT 84663

Scott Forsberg
Chemco
2727 South 625 West #F-302
Bountiful, UT 84010

NINTH: No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to any Director or Officer of the

Corporation, or any other private person, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered to or for the Corporation and to make payments and distributions in furtherance of the purposes set forth in Article THIRD hereof.

No substantial part of the activities of the Corporation shall be carrying on of propaganda, or otherwise attempting to influence legislation (except as otherwise permitted by § 501(h) of the Code and in any correspondence laws of the State of Maryland), and the Corporation shall not participate in or intervene in (including the publishing or distribution of statements concerning) any political campaign on behalf of (or in opposition to) any candidate for public office.

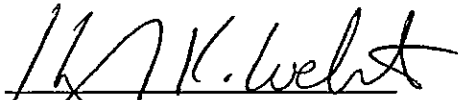
During such period, or periods, of time as the Corporation is treated as a "private foundation" pursuant to § 509 of the Code, the Directors must distribute the Corporation's income at such time and in such manner so as not to subject the Corporation to tax under § 4942 of the Code, and the Corporation is prohibited from engaging in any act of self-dealing (as defined in § 4941(d) of the Code), from retaining any excess business holdings (as defined in § 4943(c) of the Code) which would subject the Corporation to tax under § 4943 of the code, from making any investments or otherwise acquiring assets in such manner so as to subject the Corporation to tax under § 4944 of the Code if the Directors have acquired such assets, and from making any taxable expenditures (as defined in § 4945(d) of the Code).

Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not directly or indirectly carry on any activity which would prevent it from obtaining exemption from Federal income taxation as a corporation described in § 501(c)(3) of the Code, or cause it to lose such exempt status, or carry on any activity not permitted to be carried on by a corporation, contributions to which are deductible under § 170(c)(2).

TENTH: In the event of dissolution or final liquidation of the Corporation, all of the remaining assets and property of the Corporation shall, after paying or making provision for the payment of all of the liabilities and obligations of the Corporation and for necessary expenses thereof, be distributed to such organization or organizations organized and operated exclusively for charitable educational, or scientific purposes as shall at the time qualify as an exempt organization or organizations under § 501(c)(3) of the Code as the Board of Directors shall determine. In no event shall any of such assets or property be distributed to any member, Director or Officer, or any private individual.

ELEVENTH: To the fullest extent permitted by the Maryland General Corporation Law, as now in effect or as hereafter may be amended, no Director or Officer of the Corporation shall be personally liable to the Corporation for money damages, provided, however, such relief from liability shall not apply in any instance where such relief is inconsistent with any provision of the Code applicable to corporations described in § 501(c)(3) of the Code.

IN WITNESS WHEREOF, the undersigned have signed these Articles of Incorporation and acknowledge that these Articles of Incorporation are their act and that to the best of their knowledge, information and belief, and under penalties of perjury, the matter and facts set forth herein are true in all material respects.



Hugh K. Webster

1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006



David P. Goch

1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006



Brenley Locke Elias

1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20006

Date: December 2, 1997

ARTICLES OF INCORPORATION
OF
THE AMERICAN HERBAL
PRODUCTS ASSOCIATION, INC.

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FILED

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JANE BURGIO -
Secretary of State

0357815

This instrument is to certify that I, JAMES ADELSON, do hereby associate myself into a corporation under and by virtue of the provisions of an Act of the Legislature of the State of New Jersey, entitled "Corporations, Nonprofit" (Title 15A N.J.S.A.) and the amendments thereof and supplements thereto, for a lawful purpose other than pecuniary profit as hereinafter stated, and to that end I do by this instrument certify that

ARTICLE I

The name by which this Corporation shall be known is The American Herbal Products Association, Inc.

ARTICLE II

The place in this State where the principal office of the Corporation is ~~to be~~ located is the City of Hackensack, Bergen County.

ARTICLE III

(a) The purposes for which the corporation is organized are to consider and deal with those common intra-industry problems of management, including the importation, brokerage, storage, processing, and distribution of herbal products; to secure cooperative action in advancing the common purpose of its members; to promote integrity

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in business practices and encourage activities aimed at enabling the industry to conduct itself with the greatest efficiency and economy.

(b) To cooperate with other industries and organizations.

(c) To acquire, preserve and distribute valuable business information and to promote the best interests of the herbal products industry.

(d) To collect and disseminate statistics and other information.

(e) To do anything necessary and proper for the accomplishment of any objects herein set forth or which shall be recognized as proper and lawful objectives of trade associations, and to do all things and have all powers authorized by the provisions of N.J.S.A. Title 15A Corporations, Nonprofit, as now existing, or as the same may be amended hereafter.

ARTICLE IV

The corporation shall have two classes of members, namely Active and Associate.

(a) All associations engaged in the Herbal Products Industry and whose principal place of business is in the United States of Canada, are eligible to become Active members of this Association.

(b) All individuals, partnerships, firms, corporations (or their subdivisions) or associations not directly engaged but serving the Herbal Products Industry, are eligible for Associate membership of this Association.

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ARTICLE V

The name and post office address of the resident agent of the said corporation, upon who process against said corporation may be served is H. J. GARTLAN, JR., One University Plaza, Suite 307, Hackensack, New Jersey 07601.

ARTICLE VI

The number of trustees constituting the initial governing board shall be seven, and they shall serve until the first annual meeting of the stockholders, or until their successors are elected and shall qualify. The names and addresses of the persons who are to serve as such are as follows, to wit:

Peter L. Landes - 37-02 48th St., Long Island City, NY 11104

Loren D. Israelsen - 1775 S. 350 E., Provo, UT 84601

James Adelson - 45 Washington St., Brooklyn, NY 11201

Robert Levy - 100 Connecticut Dr., Burlington, NJ

Rick Rohn - PO Box 2369, Boulder, CO 80306

Mark Blumenthal - PO Box 12602, Austin, TX 78711

Rob McCaleb - 1780 55th St., Boulder, CO 80301

ARTICLE VII

Said corporation is organized exclusively for educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE VIII

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Third hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE IX

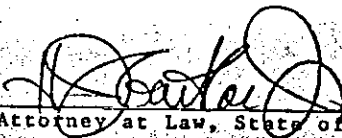
Upon the dissolution of the corporation, the Board of Trustees shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized

and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Trustees shall determine. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

IN WITNESS WHEREOF, I have hereunto subscribed my name
this 15 day of December, 1986.

I, H. J. Gortlan, Jr., an attorney at law, State of New Jersey, hereby certify that on the 15th day of December, 1986, personally appeared before me James Adelson, who being duly sworn, did swear that he was the Incorporator of the above Corporation and he did sign the foregoing document in my presence.

Witness my Hand and Seal, this 15th day of December, 1986.


Attorney at Law, State of New Jersey

2029 9433

American Herbal Products Association
MINUTES of a Regular Meeting of the Board of Trustees

November 13, 2013, 12:30-6:00 pm
Las Vegas, NV

TRUSTEES IN ATTENDANCE

Marc Allen, Chair	Herb Pharm
Cindy Angerhofer	Aveda Corporation
Jaclyn Chasse	Emerson Ecologics
Mitch Coven	Vitality Works, Inc.
Rupa Das	BI Nutraceuticals
Steven Dentali	Herbalife
Mark Dobrovolny (via teleconference)	Tom's of Maine
Staci Eisner	PlusPharma, Inc.
Richard Enticott	Martin Bauer, Inc.
Edward Fletcher	Strategic Sourcing
Daniel Gagnon	Herbs, Etc.
Jackie Greenfield	Gaia Herbs, Inc.
Steve Holmes	Metagenics
Katie Huggins	Traditional Medicinals, Inc.
Richard Kaufman	Paragon Laboratories
Beth Lambert	Herbalist and Alchemist, Inc.
Wilson Lau	nuherbs Co.
Michael Lelah	NOW Foods
David Morrison	The Vitamin Shoppe
Garry Pay	Twinlab
Graham Rigby	New Chapter
Chad Weigand (for T Borchardt)	Schwabe North America
Kay Wright	Hain Celestial
Steven Yeager	Mountain Rose Herbs

GUESTS IN ATTENDANCE

Raza Bashir	lovate
Sarah Schober	Bio Network
Tim Smale	Remedy Compassion Center
Jenna Smale	Remedy Compassion Center

TRUSTEES NOT IN ATTENDANCE

Travis Borchardt	Schwabe North America
Steve Brown	lovate
Beth Curtin	GNC
Jacob Geissler	USPlabs

AHPA STAFF

Michael McGuffin, President
Devon Powell, Chief Operations Officer
Maged Sharaf, Chief Science Officer
Merle Zimmermann, Chief Information Analyst

Meeting of the AHPA Board of Trustees
November 13, 2013

Jane Wilson, Director of Program Development
Haley Chitty, Director of Communications
Tony Young, AHPA General Counsel
Will Woodley, Associate to AHPA General Counsel

CALL TO ORDER. Marc Allen called the meeting to order at 12:35 pm, requested that attendees introduce themselves, and noted the presence of a quorum. Marc stated that Herbalife has appointed Steven Dentali as its AHPA board trustee, taking the place of Andrew Shao, and that Mark Dobrovoly has been appointed by Tom's of Maine to fill the vacancy left by the departure of Stefan Gafner. He also clarified that Chad Weigand, serving as a trustee substitute for Travis Borchardt, will serve at today's meeting with all of the rights and privileges of a trustee.

AHPA counsel Tony Young informed the board of AHPA's anti-trust policy, and stated that the meeting would be conducted in conformity with federal antitrust laws.

PRESIDENT'S REMARKS. Michael McGuffin noted that several of the AHPA staff present at today's meeting are meeting the board for the first time: Maged Sharaf, Ph.D., AHPA's new Chief Science Officer, is continuing to maintain AHPA's relationships with other organizations, such as AOAC and USP, and has picked up the many tasks on which AHPA relies on scientific expertise. Haley Chitty, AHPA's Director of Communications since June, has taken on AHPA's communications functions and significant improvements to AHPA's website are now expected in the coming months. Merle Zimmermann has been with AHPA for well over 2 years, but this is the first BOT meeting that he's attended; the board will hear reports on some of his ongoing work throughout the day. The board has previously met Jane Wilson, AHPA's Director of Program Development; she has been with AHPA just since February, and is getting projects completed, including some that have been on the unfinished list for several years. Devon Powell as AHPA's longest term senior staff and Chief Operations Officer continues to take care of the association's administration and is also responsible for educational and other forums, including for example the 2nd annual Botanical Congress scheduled on Saturday that has come together almost entirely due to his efforts.

Michael also commented that although the herbal products and dietary supplements industry has become accustomed to being the subject of criticism, the quantity and intensity of this criticism seemed to be particularly pronounced over the past several months. He mentioned in particular the ongoing attention to the studies conducted by the National Toxicology Program (NTP) on aloe vera, ginkgo, kava, and goldenseal, as these have now been classified by IARC as Group 2b, and are now subject to consideration for addition to the NTP's Report on Carcinogens. He reported on AHPA's efforts to counter this news and specifically mentioned the placement in the report of the Senate Appropriations Committee calling on NTP to refrain from extrapolating the results of a single study on one herbal extracts to all extracts of that herb, and recent communications with NTP to provide scientific information on vinpocetine.

Continuing his report on recent negative news, Michael noted the attention in the U.S. Congress and the media to energy drinks. He also mentioned the wide reporting on the

publication of the book, *Do You Believe in Magic?* by Dr. Peter Offit, largely critical of alternative medicine and dietary supplements. He also mentioned several media articles that features the views of Harvard's Dr. Pieter Cohen, who has also cast himself as a critic of supplements and how they are regulated (beginning when he published an article in NEJM in 2012 that erroneously identified illegal drug-spiked products in the market as a problem with DSHEA). Michael also called attention to two recent articles in USA Today that focused on supplement companies whose principles had legal run-ins some years ago, and that emphasized in these articles that both are AHPA members.

Michael also noted however that there has been some more positive reporting in the trade press. He mentioned in particular a recent article published by *Nutrition Business Journal* that highlighted the business benefits of successful filings of new dietary ingredient notifications, and attention in NutraIngredients to AHPA's position that a federal standard for voluntary disclosure of GMO ingredients in food.

Michael closed his report by noting that much of today's agenda, as well as the proposed priorities for 2014 that will be presented by the Finance & Governance Committee, will place AHPA's focus on the issues that are most important to members, including cGMP compliance and California Proposition 65.

APPROVAL OF MINUTES. Marc Allen moved to a review of minutes of the board's last meeting and of a meeting of the Executive Committee convened in the interim.

MOTION by Staci Eisner and seconded by Edward Fletcher to approve the minutes of the regular meeting of the AHPA Board of Trustees of July 9, 2013 and of the meeting of the Executive Committee of October 1, 2013. Motion passed by general consent.

TREASURER'S REPORT. Mitch Coven, the board treasurer, presented a report of the association's finances.

Mitch reported that the association's reserves now amount to \$973,000, or 56% of 2013 budgeted expenses (58% of projected 2013 YE expenses). He also provided a detailed report of 2013 year-to-date finances as of October 8, 2013, and year-end projections consistent with the written treasurer's report.

MOTION by Daniel Gagnon and seconded by Staci Eisner to accept the treasurer's report for the association's 2013 YTD finances. Motion passed by general consent.

Mitch next presented a draft 2014 budget, also consistent with the written treasurer's report. In the course of this discussion the board discussed funding for the AHPA ERB Foundation in both 2013 and 2014.

MOTION by Staci Eisner and seconded by Mitch Coven to amend the 2013 budget by adding an expense of \$10,000 (ten thousand dollars) for a donation to the AHPA Foundation for Education and Research on Botanicals. Motion passed by general consent.

MOTION by Staci Eisner and seconded by Cindy Angerhofer to adopt a budget for fiscal year 2014 as presented by the treasurer and discussed and revised by the

board at today's meeting, with projected revenues of \$1,746,000, expenses of \$1,842,580, and a net loss of \$96,580. Motion passed by general consent.

REPORT OF COUNSEL. Tony Young reported on several topics of interest to AHPA and its members; his report follows:

This is the year of the dietary supplement current Good Manufacturing Practice (cGMP) extension to a wide range of manufacturers and distributors. FDA is inspecting and warning companies on cGMP compliance and is beginning to press on small business mainstream botanical companies.

FDA has clearly embarked on a cGMP systems oriented approach. The administration looks to see a company's cGMP systems that address root cause analysis of complaints and failures are robust and that the company understands that they are to learn from their mistakes and to determine if there are systems changes that will avoid those mistakes in the future..

Warning letters this year have focused on companies that make claims that are out of line with mainstream industry. Those warning letters focus on cGMP issues, then any claims issues -- including nutrient content claims -- and then label issues. These more recent letters are a good auditing tool to determine compliance in all areas.

FDA also seems to be using increasingly strict standards when inspecting companies. Companies that have been inspected from time to time over the years are experiencing an increase in the detail of the cGMP compliance inspections that are being made. FDA comes in and chooses a particular part of the cGMP to focus on and then does so.

Companies with many stock keeping units (SKUs) are finding it necessary to make changes across many master manufacturing records (MMRs) and standard operating procedures (SOP) in order to meet FDA observations. And FDA is returning within a year to determine if promised fixes have been implemented. Some have been able to explain that their current practices were implemented to resolve issues highlighted after previous inspections with FDA inspector agreement. This explanation only works when the fix previously viewed as OK by FDA continues to be viewed in that fashion.

There is every indication that FDA will continue to inspect dietary supplement manufacturers, in part to train additional inspectors, who will be inspecting for compliance with the Food Safety Modernization Act (FSMA) when it is effective.

All this FDA attention on cGMP regulations makes this a critical time for AHPA members, especially small members, to establish workable ways to meet various cGMP requirements that can be very burdensome when applied to simple herbal tinctures and combination products of all kinds.

AHPA petitioned FDA to issue Form 483s with the applicable part of the cGMP cited. FDA and the inspectors have this information and AHPA encourages anyone who is inspected and receives an FDA Form 483 to ask the inspector to disclose which regulation is applicable to each observation.

FDA Strategies

Leaders at the FDA are regularly make speeches to highlight claims issues and even ingredient issues, like kratom as an herbal ingredient. On issues like ingredients Some at FDA appear to believe that transparency is making speeches to those who attend events where they are speakers. Transparency, especially where the public health is involved, is best achieved through announcement on the FDA website and to the press. FDA seems not to understand that those who market products whose safety has not been substantiated or with undeclared drug ingredients, seldom attend industry functions where FDA speaks.

Cold and flu season claims

FDA and the Federal Trade Commission (FTC) will likely review claims again this year during the cold and flu season. This makes it a good time to review website and other marketing claims to ensure they are in compliance. *The Tan Sheet* created news early this year by asking companies how they could be making cold and flu claims and then publicizing their responses. This prompted FDA and FTC sending warning letters.

Lawsuits

FTC took action in court against a human chorionic gonadotropin (HCG) homeopathic manufacturer for continued weight loss claims. FTC and FDA had sent warning letters to seven companies in 2011 and this company did not stop the claims. FTC's lawsuit also named seven relief defendants who received money from sales of the HCG product, but had no active role in the alleged efforts to deceive consumers. It appears that FTC is targeting the profits of the company and its investors. In the past this has led to repossessions of mansions, boats, cars and second homes.

Most (if not all) the major brands are ensnared in glucosamine/chondroitin lawsuits from the plaintiffs' bar on the allegation that the the science on efficacy of is not conclusive.

Another lawsuit strategy emerging in New Jersey and California begin with a plaintiff letter regarding issues like web claims. These letters often include general substantiation to demonstrate that the plaintiff knows the vulnerable issue for a lawsuit. Generally these plaintiffs offer to settle before submitting a formal complaint. If the company refuses to settle, the plaintiff often shops the lawsuit around to appropriate firms for a fee. This enables plaintiffs to profit without having to invest in any legal action.

This is a good reminder for companies to take preventative actions to limit the risk of private actions. Every claims analysis for products, marketing materials and websites should consider the potential for private action claims and possible lawsuits.

Congress

The Drug Quality and Security Act was passed by Congress and signed into law by President Barack Obama. There was some concern that this bill might be used by

Sen. Dick Durbin (D-IL) to attach some provisions from his Dietary Supplement Labeling Act, but no dietary supplement provisions were added to the final bill.

During the temporary federal shutdown food and supplements were generally imported and exported with little disruption, but pesticide imports were disrupted. This suggests that FDA determined it was important to keep the border open during the shutdown while the Environmental Protection Agency (EPA) did not. However, pesticides riding in on food were stopped at the border by FDA if they were found.

REPORT OF THE AHPA ERB FOUNDATION. Beth Lambert, chair of the AHPA ERB Foundation, presented the Foundation's report to the AHPA board, as outlined in its written report to the AHPA board, and the following actions were taken:

MOTION by Staci Eisner and seconded by Edward Fletcher to appoint Zoë Gardner and Wendy Applequist as directors of the AHPA Foundation for Education and Research on Botanicals for three year terms, effective immediately. Motion passed by general consent.

MOTION by Staci Eisner and seconded by Jackie Greenfield to authorize issuance as an AHPA publication of the document distributed to the board on November 6, 2013 and titled, Primer on importing and exporting CITES-listed species used in traditional herbal medicines and dietary supplements in the United States, subject to minor editorial revisions; except that, AHPA staff may extend the scope of the document to include species used in homeopathic products if this extension can be completed within 30 days. Motion passed by general consent.

It was further suggested that some attention be given to the application of this document to herbal ingredients used in cosmetic products.

Beth also provided a short report of the Foundation's financial support for research on the wild collection of osha (*Ligusticum porteri*) and consideration for supporting a project to establish a gene bank for wild American ginseng (*Panax quinquefolius*).

EXECUTIVE REPORT. Michael McGuffin introduced the executive report to the board and provided detailed reports on the following.

Sales and marketing of AHPA's *Botanical Safety Handbook*, 2nd ed. Michael provided an update on the sales to date of AHPA *Botanical Safety Handbook*, 2nd edition.

Report on GMO legislation. Michael reported on the recent state and federal efforts to establish a mandatory requirement for disclosing GMO ingredients in foods (presumably including supplements), noting that a Washington state initiative was rejected on November 4, 2013, and that federal legislation introduced earlier in the year has not yet been acted on.

Michael reminded the board that it had adopted a position in July to authorize and instruct staff to advocate for a federal regulation for voluntary disclosure of absence of genetically engineered ingredients in food and dietary supplements, such regulation to be established by legislation or by rulemaking. He noted also that the Grocery Manufacturers Association

has now circulated draft legislation to establish a federal standard for voluntary disclosure of the absence of GMO ingredients and has invited AHPA (and as many as 40 or more other trade associations) to join a “Coalition for Safe, Affordable Food.” He reported too that the Organic Trade Association announced on November 12 that it is encouraging the Food & Drug Administration to issue guidance on such voluntary labeling.

MOTION by Staci Eisner and seconded by Graham Rigby to request that the board’s GMO Working group and the Government Relations Committee review draft legislation that would establish a federal standard for voluntary disclosure of the absence of GMO ingredients and make a recommendation to the Executive Committee within 30 days as to what role and position, if any, AHPA should take on this matter. Motion passed with one abstention.

Update on NTP issues. Michael reminded the board that California’s Office of Environmental Health Hazard Assessment (OEHHA) is expected to consider listing of four herbs (aloe vera, ginkgo, goldenseal and kava) under Proposition 65 due to studies by the National Toxicology Program (NTP) and recent classifications by the International Agency for Research on Cancer (IARC). He informed the board that he has approached Exponent consulting to engage with OEHHA on AHPA’s behalf.

MOTION by Staci Eisner and seconded by Jaclyn Chasse to amend the 2013 budget by adding an expense of \$5,000 (five thousand dollars) for payment to Rob Scofield / Exponent for consulting services related to California Proposition 65 and studies on herbs by the National Toxicology Program. Motion passed by general consent.

Attention to kratom. Michael reminded the board that it had authorized and instructed staff and counsel to work cooperatively with other trade associations to develop an appropriate communication with FDA on the subject of the herb kratom. He reported that he had engaged in communications with other trade groups to discourage any overt suggestion to FDA that the herb is innately unsafe or unlawful, but that three of the other groups had, in fact, sent a letter addressed to Dr. Daniel Fabricant in which they declared that kratom is “mis-marketed as a dietary supplement despite falling outside the legal definition of a dietary supplement based on its intended uses,” and that cited information from a document produced by the Drug Enforcement Agency (DEA) that also identified the herb kava as a substance “of concern” to DEA.

EXECUTIVE SESSION. The board held an executive session to discuss issues related to the association’s day-to-day operations. Michael McGuffin attended the first part of this session, and provided general comments on the current status of AHPA’s staff and operations; he and Staci Eisner then departed the meeting.

The board then held a closed session. After the meeting Marc Allen informed Michael that the subjects of the closed session were limited to a discussion of the need for Marc, as the board chair, to implement the protocol for an annual performance review (i.e., to confirm participants and milestone dates in accordance with the review protocol), and a clarification that any increase in the president’s compensation that may be determined

by the board will occur after the year end. Marc also reported that one board member requested a discussion in Executive Session on a matter that was more appropriate for a committee meeting format, and so agreed to withdraw the request and take up the matter with the appropriate committee.

REPORTS OF AHPA COMMITTEES

Cannabis Committee. Jane Wilson reported for the committee, and informed the board that the committee has now completed its recommendations to regulators on cultivation and processing of cannabis in states that allow this practice. She noted that this document was distributed to the board on November 6, 2013, and that this is the third of four such recommendations envisioned by the committee.

MOTION by Daniel Gagnon and seconded by Staci Eisner to authorize AHPA staff to submit recommendations, on behalf of the AHPA Cannabis Committee, for regulation of cannabis cultivation and processing to regulators in those states where use of cannabis is allowed under state law, such recommendations to be significantly similar to those distributed to the AHPA board on November 6, 2013. Motion passed with one abstention.

Michael McGuffin added to the committee's report by informing the board that he attended an international symposium on cannabis legalization in Mexico in August at the invitation of Mexico's former president, Vicente Fox. He also reported that he has been invited to join the Patient Focused Certification Review Board being established by ASA, and that he and Tim Smale, the committee chair, have been invited to give a one-hour presentation this Friday as part of the Supply Side West educational program; the presentation is titled, Medical cannabis: From illegal use to regulated access throughout the supply chain.

Finance & Governance Committee. Marc Allen reported for the committee, and informed the board that meetings had been scheduled throughout the year, culminating in a meeting earlier in the day, to identify proposed 2014 priorities.

MOTION by Staci Eisner and seconded by Daniel Gagnon to adopt the following priorities for 2014:

- Re: cGMP compliance
 - Produce at least 2 webinars on specific cGMP related topics;
 - Create 10 new SOP templates to support key cGMP issues;
 - Identify 3 areas of inconsistent cGMP inspection interpretation and create a consensus position that is workable for industry;
 - Complete a web accessible cGMP inspection records database (redacted for identity) [if not completed in 2013].
- Re: CA Proposition 65
 - Develop and launch a consumer-focused website to assist industry communication regarding the context of Proposition 65 labeling which consumers may find on products, etc.

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- Develop a functional mechanism for AHPA members that provides access to Proposition 65 complaint and settlement trends, based on data that AHPA staff already obtains on a regular basis.
- Re: Legislative relationships
 - Increase participation in the AHPA PAC by 10 new contributors.
 - Recruit one additional Senate participant for the Dietary Supplement Caucus before the close of the 113th Congress.
- Re: U.S. pesticide policy
 - Develop a template for specifications for pesticide “contamination that may adulterate” dietary supplements to comply with 21 CFR 111.70(b)(3) and (e).
 - Improve, simplify, and make more accessible the existing form for herbal import detentions.
 - Develop per-crop communications to identify the U.S. pesticide tolerances for any crop of interest to members.

Motion passed by general consent.

Michael McGuffin next reported on governance issues on which the committee has developed recommendations and the following actions were taken:

MOTION by Staci Eisner and seconded by Jaclyn Chasse to establish that botanical reference standards be considered to be an “herbal product” as that term is defined in the AHPA Bylaws, Article II, such that companies that market botanical reference standards should be considered to be Active members, as defined in the AHPA Bylaws, Article IV, Section 4. Motion passed with one abstention.

MOTION by Staci Eisner and seconded by Daniel Gagnon to adopt a policy with regard to dietary supplement marketers that apply for membership in AHPA to consider an application to be incomplete if either of the following occur: (1) the applicant makes any claim that an ingredient that it markets is a constituent of a botanical, unless the applicant also provides substantiation of this claim if the ingredient is not a well-established constituent of a botanical as determined by AHPA staff at its discretion; (2) the applicant claims to market a new dietary ingredient, unless the applicant has provided to AHPA a copy of a new dietary ingredient (NDI) notification filed with the Food and Drug Administration if such notification is required to be filed for the NDI. Motion passed by general consent.

Government Relations Committee. Staci Eisner and Michael McGuffin provided the committee’s report to the board and touched on a number of topics.

Comments to first proposed FSMA rules (HA/PC and Produce rules). Staci provided background on the process of development of AHPA’s draft comments to two rules proposed by FDA to implement the Food Safety Modernization Act. These are (1) a proposed rule to establish 21 CFR 112 (“the proposed Produce rule,” or more precisely, the proposed rule on Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption); and (2) a proposed rule to establish 21 CFR 117 (“the proposed HA/PC rule,” or more specifically, the proposed rule on Current Good

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Manufacturing Practice and Hazard Analysis and Risk-based Preventive Controls). She noted that draft AHPA comments have been under development over the last several months and that a working group of this committee has been meeting to review these about weekly; copies of the current drafts were sent to the board on November 11.

Staci reported that the focus of the draft comments is on minimizing redundancies and unnecessary regulations and encouraging FDA to be very precise in its regulatory language. Upon discussion the following action was taken by the board:

MOTION by Daniel Gagnon and seconded by Edward Fletcher to authorize and instruct staff and counsel to submit comments on behalf of AHPA to the Food and Drug Administration in the matters of (1) the proposed rule to establish 21 CFR 112, titled Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; and (2) the proposed rule to establish 21 CFR 117, titled Current Good Manufacturing Practice and Hazard Analysis and Risk-based Preventive Controls, such comments to be significantly similar to the drafts presented to the board on November 11, with such editorial revisions and other modifications as are needed and as are consistent with the board's discussion of these drafts. Motion passed by general consent.

Michael next presented the board with recommendations of the committee's AHPA PAC Working group, leading to the following board actions:

MOTION by Daniel Gagnon and seconded by Kay Wright to instruct the AHPA Government Relations Committee to establish an AHPA PAC Oversight Subcommittee with an express purpose to provide oversight to the management of the AHPA Political Action Committee (AHPA PAC) and with the following responsibilities: (1) To present a recommendation to the AHPA Board of Trustees each year at its fall meeting for the upcoming year's AHPA PAC Contribution Plan; (2) to meet not less than twice annually; (3) to evaluate as needed such issues as bicameral and bipartisan balance in candidate contributions; and (4) to be timely provided with all of the PAC's filings with the SEC. Motion passed by general consent.

It was noted that the members of the AHPA PAC Working group had been Marc Allen, Garry Pay, and David Morrison, and each of them offered to serve as members of the newly formed AHPA PAC Subcommittee.

MOTION by Daniel Gagnon and seconded by Kay Wright to adopt a 2014 AHPA PAC Contribution Plan to include the following details (1) Contributions are made to Federal candidates who support the needs and positions of AHPA and AHPA's members; and (2) 2014 contributions are limited to \$500 (five hundred dollars) per Federal candidate and to \$2,000 (two thousand dollars) in total, except that if additional donations are received during 2014 the board may consider revising these limits. Motion passed by general consent.

MOTION by Daniel Gagnon and seconded by Kay Wright to authorize the association president to make contributions to Federal candidates in accordance with each AHPA PAC Contribution Plan adopted by the AHPA Board of Trustees,

and to instruct the president to timely inform the AHPA PAC Oversight subcommittee each time a contribution is made by the PAC. Motion passed by general consent.

Dietary Supplement Labeling Act (S. 1425). Michael reported that Senator Richard Durbin (D-IL) introduced this legislation (co-sponsored by Senator Richard Blumenthal (D-CT)) in August and provided some details as presented in the committee's report. Upon discussion, the following action was adopted:

MOTION by Daniel Gagnon and seconded by Mitch Coven that AHPA express formal opposition to the Dietary Supplement Labeling Act (S. 1425) and use its best efforts to prevent this legislation from being adopted; and further, to authorize staff to take steps to involve AHPA member companies in requesting that their Senators oppose S. 1425, the Dietary Supplement Labeling Act, and any attempt to insert any part of this bill in other legislation. Motion passed by general consent.

Sports Nutrition Committee. Devon Powell reported on behalf of this committee as the staff liaison. He noted that the committee does not currently have a chair and that the committee would offer a recommendation to the board in the near future.

Devon also reported that the committee has expressed an interest in resolving how protein can be declared on product labels in compliance with the federal nutrition labeling rule. The attendees generally agreed that the committee inform the board of any recommendation that it develops to address this issue.

Tea Products Committee. Wilson Lau, the committee's chair, submitted the committee's report to the board. He noted that although the term "tea" has a broad meaning in the U.S. market, European marketers generally reserve the term "tea" to products consisting of or made with black or green tea (*Camellia sinensis*) and refer to products made from other ingredients as "infusions." Wilson also reported that the committee believes that its scope may extend to companies that do some or all of their business in Europe.

MOTION by Staci Eisner and seconded by Daniel Gagnon to change the name of the Tea Products Committee to the Tea and Infusion Products Committee. Motion passed by general consent.

There being no further business Marc Allen adjourned the meeting at 5:45 pm.

Respectfully submitted by Wilson Lau, Board Secretary, December 7, 2013.