

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, DC 20580



Division of Advertising Practices

Mary K. Engle
Associate Director

June 6, 2016

John P. Feldman, Esq.
Reed Smith LLP
1301 K Street, NW
East Tower, 10th Floor
Washington, DC 20005

Re: 2nd Skull, LLC (FTC File No. P164501)

Dear Mr. Feldman:

As you know, staff of the Federal Trade Commission's Division of Advertising Practices conducted an investigation into whether your client, 2nd Skull, LLC, violated Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with its marketing of skullcap and headband products (collectively "headgear products"). Our inquiry focused on whether 2nd Skull had adequate substantiation for representations that its headgear products: 1) prevented or reduced the risk of concussions or traumatic brain injuries; 2) were proven to add up to 35% more impact protection; and 3) absorbed more than 90% of energy when impacted at high strain rates.

Upon careful review of the matter, including non-public information submitted to the FTC, we have determined not to recommend enforcement action at this time. Among the factors we considered in making this determination were: 1) the limited volume of sales for the headgear products; 2) that the claims of concern have been discontinued and/or removed; and 3) the company's use of a clear and conspicuous disclosure that no conclusions about a reduction of risk or severity of neck, head, or brain injuries, including concussions, should be drawn from impact absorption tests.

Staff encourages 2nd Skull to exercise caution in future advertising when making claims about impact absorption or when describing the attributes of materials used in its headgear products. The company has an obligation to ensure that its advertising claims to consumers are truthful and adequately substantiated.

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This action is not to be construed as a determination that a violation of law did not occur, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mary K. Engle".

Mary K. Engle
Associate Director
Division of Advertising Practices