



NEW YORK STATE SENATOR

Jeffrey D. Klein

## SENATOR JEFF KLEIN, PUBLIC ADVOCATE LETITIA JAMES & MAKE THE ROAD NEW YORK RELEASE BOMBHELL INVESTIGATIVE REPORT “THE AMERICAN SCHEME: HERBALIFE’S PYRAMID ‘SHAKE’DOWN”

JEFFREY D. KLEIN October 27, 2015

| ISSUE: **INVESTIGATIONS, VIOLATIONS, NEW YORK CITY, LEGISLATURE**

*Klein introduces legislation to increase oversight of Herbalife International, require full financial disclosure of independent Herbalife distributors, and strengthen protections for prospective sellers*

*Klein, James & Make the Road New York: “It’s time to shed the light on Herbalife’s deceptive business practices and bogus claims connected to nutrition products.”*

**BRONX, NY - State Senator Jeff Klein (D-Bronx/Westchester), together with Public Advocate Letitia James, Council Member Annabel Palma,** and Make the Road New York today released a bombshell investigative report “*The American Scheme: Herbalife’s Pyramid ‘Shake’down.*”

The new report found that Herbalife International is running a get rich quick scheme targeted at low-income immigrant families. Prospective distributors are lured into the Herbalife hierarchy with the promise of the American Dream – lavish vacations, extravagant mansions, and cold hard cash – in return for peddling Herbalife products. The reality, however, is much darker – a nightmare in which families report losses averaging \$20,000, all while high level Herbalife executives pad their pockets.

**Senator Jeff Klein said:** “Herbalife’s house of cards is tumbling down. This fraudulent company’s efforts to lure in vulnerable New Yorkers and recent immigrants in pursuit of the American Dream is downright shameful. With false promises of wealth and extravagance, a disproportionate number of Hispanic families are falling prey to these schemes and sacrificing their hard earned dollars. This stops now – my new legislation will significantly boost protections for consumers and distributors, drastically strengthen financial reporting requirements for Herbalife independent members and increase oversight of this deceptive company in New York. I’m proud to partner with Public Advocate Letitia James and Make the Road New York to shine light on this company’s dark and deceitful practices.”

**Public Advocate Letitia James said:** "Herbalife cannot continue to destroy thousands of lives with its despicable and unethical practices. Our undercover investigations show just how blatantly this pyramid scheme is targeting and exploiting immigrants across our City – particularly from the Hispanic community. Together, we are putting Herbalife on notice, and we will ensure that their days of deceit in New York are numbered."

In October, Senator Klein’s Office, in partnership with The Office of the Public Advocate, and Make The Road New York, conducted an undercover investigation into health product distributor Herbalife International. The alarming investigation found that thousands of New Yorkers – mainly immigrants – were targets of a pyramid scheme disguised as a direct marketing opportunity and sold countless lies about the health benefits of Herbalife products.

Independent Herbalife distributors, which operate more than 60 ‘nutrition clubs’ at locations throughout the five boroughs – 16 in The Bronx, 26 in Queens, and 18 in Brooklyn – are convinced to pursue this business opportunity by current distributors with the promise of immense financial gains. Herbalife products are also billed as magical cure-alls with disease fighting properties that can help manage weight loss, cure cancer, diabetes, chronic asthma

and more.

The company is structured so that Herbalife products can only be purchased from an accredited distributor. These distributors, who are not Herbalife employees, sell and market Herbalife products to family, friends and neighbors in their communities away from fixed retail locations.

Prices vary by distributor since Herbalife sets no cost requirements for its products. In order to get these nutrition shakes, supplements and other health elixirs at discounted rates, consumers are encouraged to become Herbalife members and purchase the products directly from Herbalife or the distributor that introduced them to the company. Prospective recruits are promised low startup costs ranging from \$60 to \$100, but are often tricked into spending their life savings on the business opportunity by the very person who recruited them. These experienced distributors then profit from their new recruit's initial purchase and collect royalties on their sales down the line. The average initial investment in Herbalife International is \$1,800, with some as high as \$10,000.

With nearly 555,000 product distributors in the U.S., it's estimated that anywhere from 60 to 83 percent of Herbalife distributors are Latino. As New York is home to 3.5 million Hispanics, with approximately 805,000 classified as low-income, it's clear that New York is a virtual hunting ground for Herbalife's predatory practices.

**Council Member Annabel Palma said:** "I applaud Senator Klein for his ongoing efforts in advocating against deceptive and unfair business practices, such as those from Herbalife. The Herbalife Transparency bill will help protect our families from predatory schemes that many multi-level marketing companies promote. These types of companies claim to provide legitimate entrepreneurial opportunities for those struggling to find work, but after these unwitting victims become Herbalife distributors, they find out that doing business with the

company costs them more money than they can make, with many losing their initial investment and more. I support this legislation, and will continue to advocate against these unfair business practices that disproportionately target economically distressed communities.”

**Council Member Julissa Ferreras-Copeland said:** “For too long, Herbalife International has gone after poor, minority and immigrant groups and exploited their desperation to escape poverty. As a council member representing hundreds of victims in Queens, I stand with my colleagues today to demand that the Federal Trade Commission conduct a thorough investigation of Herbalife’s abusive pyramid scheme and work to protect consumers from these malicious recruitment tactics. If Herbalife is acting illegally by making false income claims to vulnerable New Yorkers, then they must be held responsible.”

The Office of Senator Klein examined 56 complaints filed with the Office of the New York State Attorney General and the Federal Trade Commission. Together, these victims reported financial losses totaling \$950,000 and ranging from \$90 - \$100,000. Of the 56 complaints filed, 93 percent indicated Spanish as their primary language. More than 60 percent of new members made initial investments larger than the required \$60 to \$100.

Herbalife distributors purport prospective sellers can earn as much as \$20,000 per month selling Herbalife nutrition products. The reality is, that nearly 90 percent of new distributors will quit within one year. Moreover, of the 56 complaints filed in New York, only eight victims reported receiving a check directly from Herbalife for their royalty claims. The average amount was \$100.

For too long, Herbalife has skirted the law and allowed vulnerable New Yorkers to be taken for a ride. To curb health product franchisors use of deceitful business tactics in New York, Senator Klein has introduced legislation in the state Senate to increase oversight, require full

financial disclosure of independent Herbalife distributors, and strengthen protections for prospective sellers. Key provisions include:

- Mandates that health product franchisors in the state file an annual financial disclosure statement written in plain English and Spanish for the Attorney General to review before submitting to prospective franchisees. The statement includes the number of franchisees in the state, average income claimed by franchisees, percentage of franchisees that fall within various amount parameters as determined by the Attorney General, and the reported turnover rate of franchisees.
- Requires that prospective franchisees receive their offering prospectus in the primary language of the prospective franchisees.
- Requires that any pamphlets, circular, form letter, advertisement or other sales literature of advertising communication intended for prospective health product franchises be approved by the Attorney General.
- Calls for health product franchisor engage in supervision of its franchisees to ensure compliance with the law to prevent fraudulent and deceptive acts by the franchisees.

**Francisca Montana, consumer fraud prevention program coordinator at Make the Road New York, said:** "Unfortunately, Herbalife sells our community members a dream that will never come true. Its corporate model preys on the hopes of our community, and promises unreachable success. Many of our community members have invested their hard-earned savings in an impossible business, and yet they themselves are blamed for any failure while the reality is that only .01% of participants actually obtain the results promised. Herbalife profits from the vulnerable populations that are looking to realize the American dream: recent immigrants, English-language learners, the undocumented and low-income, hard-working

Latinos. They are all drawn to what we now know to be a pyramid scheme, hoping to achieve a better life for themselves and their families."

**Florentino Arce, member of Make the Road New York and former Herbalife distributor:**

"Herbalife betrayed me. In total, I invested about \$12,000, participated in Herbalife's University of Success and Extravaganzas to better learn about the business and the company's instructions to become successful. I put all of my effort and time into the business and even signed up various people under me. But it was a scam: no matter how hard I tried, it was impossible to achieve what they promised, and I lost all of the money and time I invested. No one should sign up with Herbalife."

**Carmen Salazar, member of Make the Road New York and former Herbalife distributor, said:** "I feel relief that someone as important as Senator Klein is paying attention to the multi-level pyramid scheme that is Herbalife. There has never been help before to those who have lost it all believing in their deceitful ways. I hope that this proposal can put a stop to their lies and make everyone take a second look at Herbalife."

**Maria Elena Khochaiche, member of Make the Road New York and former Herbalife distributor:**

"I tried selling Herbalife products for about six months, but it was a waste of time. No one would buy the products because they were too expensive, and I was told they did not work. Personally, taking Herbalife also never helped my back pain go away. When I tried to recruit more people, no one wanted to join. Eventually, I stopped, because I did not want to lie to my friends about this useless product. I feel scammed. I think I was sold an American Dream that ended up being the American Nightmare."