

EMERGENCY CITIZENS PETITION
FDA “Ban” of Ear Candles Violates Consumer Rights!

To: President Obama, HHS Secretary Sibelius and FDA Commissioner Hamburg c/o
FDA Dockets Manager, 1401 Rockville Pike, Rockville, MD 20852-1448

This Petition is submitted in cooperation with the Natural Solutions Foundation – www.HealthFreedomUSA.org -- Decision-Maker Education Program.

The undersigned petition the President, his Secretary of HHS, his Commissioner of FDA and the United States Government for redress of grievances. We are all consumers of natural health products. Some of us have satisfactorily used these modalities for our entire lives. The Federal agencies that should be protecting our access to natural products too often interfere instead.

During February 2010 the Food and Drug Administration, with an excess of zeal, has ordered 14 of the 15 known Ear Candles companies in the United States to cease all activities, since the agency now deems Ear Candles “medical devices” without hearing from the Public, findings of fact, Significant Scientific Agreement or other substantiating or supporting reason, evidence of science. Among the undersigned are individuals who have used ear candles for relaxation and general wellness for decades. They have used them prior to 1976, when the agency was given power over “medical devices.” Ear Candles are not medical devices. They are a traditional, natural product that promotes relaxation and the health benefits of relaxation.

We therefore deplore the FDA’s action, which, in effect, censors what Americans can say commercially about Ear Candling. This is wrong and violates the Constitution as interpreted by the Supreme Court.

We cite the case of *Thompson v. Western States Medical Center* (535 U.S. 357, 2002). This case concerns a clause in the Food, Drug and Cosmetics Act that allows pharmacists to “compound” medications for specific prescriptions without safety testing and FDA prior approval, but originally forbade pharmacists from advertising the specific compounds they make. The Supreme Court held that the restriction on Commercial Speech was unconstitutional. Some of the language used in Justice O’Connor’s Majority Decision that sets the tone is as follows:

“If the First Amendment means anything, it means that regulating speech must be a last - not first - resort... We have previously rejected the notion that the Government has an interest in preventing the dissemination of truthful commercial information in order to prevent members of the public from making bad decisions with the information... Even if the Government did argue that it had an interest in preventing misleading advertisements, this interest could be satisfied by the far less restrictive alternative of requiring ... a warning that the [product] had not undergone FDA testing and that its risks were unknown.”

We call upon the President and his agents to reverse the FDA determination. The law already forbids the making of medical claims with regard to products such as Ear Candles. Therefore removing the product from the market is an unnecessary interference with the choices of adults regarding their own private activities.

This is why we hold that “Health Freedom is Our First Freedom” because without it, our other liberties may not be effectively exercised. Therefore we submit the following Emergency Petition:

EMERGENCY PETITION FOR STAY OF PRODUCT BAN: The undersigned Petition the President, his Secretary of HHS, his Commissioner of FDA and the United States Government for redress of grievances in that the FDA, exceeding its authority and unnecessarily restricting and interfering with the private lives of the consumers of natural products, has taken steps to remove Ear Candles from the marketplace without public hearings or any showing of significant public danger or harm. Five adverse event reports in over a decade do not warrant a Federal prohibition. We therefore petition for an immediate stay of the cease and desist letters sent to various American Ear Candle companies during February 2010.

Signatures:

(Return signed petitions ASAP to: Dr. Harmony, 3318 Highway 5, #410, Douglasville, GA 30135.)

