



November 10, 2022

**VIA EMAIL**

Peter C. Marinello, Director  
Howard J. Smith, Attorney  
Direct Selling Self-Regulatory Council  
112 Madison Avenue, 3rd floor  
New York, NY 10016  
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Re: Elomir, Inc.'s Use of Illegal Health and Income Claims

Dear Peter and Howard:

We write to file a complaint with the Direct Selling Self-Regulatory Council against Elomir, Inc., a Texas-based multi-level marketing company that launched in July 2022 and which sells a product called Axis Klarity, a strip that dissolves on the tongue and is deceptively marketed as able to provide a plethora of health benefits, including the ability to bring mental clarity and focus to users. In addition to making such unsubstantiated health claims about its flagship product, Elomir and its distributors also make atypical income claims to market the business opportunity.

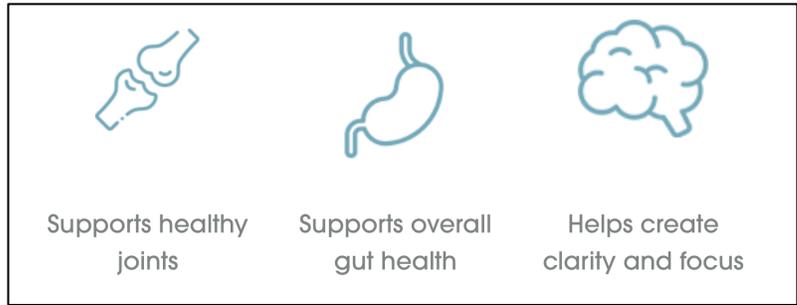
**Unsubstantiated Health and Disease-Treatment Claims**

A common claim made about Elomir's product is that it can provide mental clarity and focus. From the company's website, to the product packaging, to Elomir's common use of the hashtag #mentalclarity in social media posts, the Axis Klarity strip is heavily promoted as a treatment for attention deficit issues.

### Elomir product packaging<sup>1</sup>



### Elomir website<sup>2</sup>



### Elomir Instagram<sup>3</sup>



### Elomir co-founder Instagram post<sup>4</sup>



Claims that a product can improve cognitive function and enhance mental focus require substantiation in the form of competent and reliable scientific evidence,<sup>5</sup> as well as prior FDA approval,<sup>6</sup> neither of which Elomir has.<sup>7</sup>

In addition, the Axis Klarity strip is also marketed as able to treat, cure, or alleviate the symptoms of several other medical conditions, including, for example, anxiety, depression, and diabetes, as well as reduce inflammation.

### Treatment for autism<sup>8</sup>



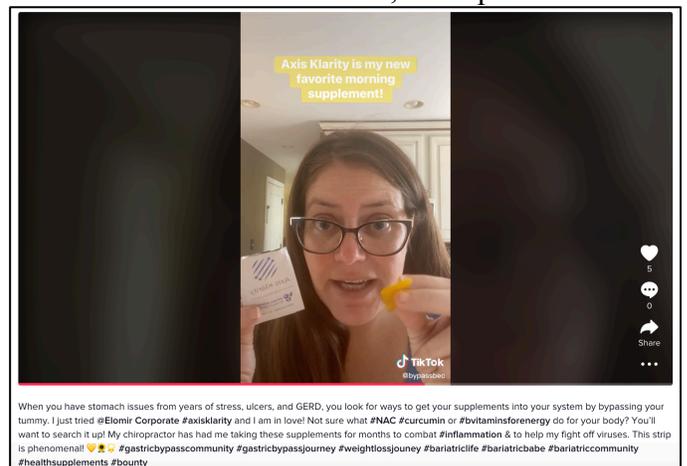
### Alternative to prescription medication<sup>9</sup>



### Treatment for anxiety<sup>10</sup>



### Treatment for inflammation, virus preventative<sup>11</sup>



## Treatment for diabetes<sup>12</sup>



TINA.org has compiled more than 75 examples of such unsubstantiated health and disease-treatment claims made about the product, all of which are available at [www.truthinadvertising.org/evidence/elomir-health-claims](http://www.truthinadvertising.org/evidence/elomir-health-claims).

### Deceptive Income Claims

Elomir and its distributors also use deceptive and unsubstantiated income claims to promote the business opportunity. On its website, Elomir claims the business opportunity can provide “a little extra income to help pay your bills or ... a long-term home-based business”<sup>13</sup> while its founders claimed, the month the company launched, that it would be paying out “multiple 7 figures [in commissions] by the end of July!!!”<sup>14</sup> In light of these claims, it’s not surprising distributors have followed suit, claiming, for example, the Elomir business opportunity has allowed them to #buildmyretirement,<sup>15</sup> bring #financialfreedom,<sup>16</sup> “[p]ay off 3 of our credit cards,”<sup>17</sup> and “paid our house note.”<sup>18</sup> TINA.org has compiled more than 30 examples of such deceptive income claims, all of which are available at [www.truthinadvertising.org/evidence/elomir-income-claims](http://www.truthinadvertising.org/evidence/elomir-income-claims).

Elomir and its distributors make these claims despite the fact that the company states – in an income disclosure statement that is linked at the very bottom of its website – that “it lacks enough statistical data to prepare reliable income disclosures” (yet it is “confident” the compensation plan will “provide you a solid foundation to help you achieve your financial goals.”)<sup>19</sup>

#### INCOME DISCLOSURE STATEMENT

The Elomir Compensation Plan is an exciting opportunity that rewards you for selling products and services and sponsoring other participants who do the same. Although the opportunity is unlimited, individual results will vary depending on commitment levels and sales skills of each participant. Since Elomir has recently launched, it lacks enough statistical data to prepare reliable income disclosures. There will be certain participants who will earn less while others will earn much more. We're excited about the Elomir Compensation Plan and we're confident it will provide you a solid foundation to help you achieve your financial goals. As with all endeavours, hard work and the time you dedicate impact outcomes.

If income projections were presented to you prior to your enrollment, such projections are not necessarily representative of the income, if any, that you can earn through your participation in the Compensation Plan. These income projections should not be considered as guarantees or projections of your actual earnings or profits. Success with Elomir results only from hard work, dedication, and leadership.

Put simply, in the less than five months the company has been in operation, it has managed to fill the internet with deceptive and unsubstantiated marketing claims to sell its product and business opportunity.<sup>20</sup>

#### **Conclusion**

TINA.org urges the DSSRC to review the claims being made by Elomir and its distributors, and take appropriate action.

If you have any questions, please do not hesitate to contact us.

Sincerely,



Laura Smith, Esq.  
Legal Director  
Truth in Advertising, Inc.



Bonnie Patten, Esq.  
Executive Director  
Truth in Advertising, Inc.

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<sup>1</sup> Elomir Home Page, <https://elomir.com>.

<sup>2</sup> Elomir Axis Klarity, <https://elomir.com/product/shopping/elomir-axis-klarity-skuelm-6-001-9-30us-id2>.

<sup>3</sup> Elomir Official August 24, 2022 Instagram post, [https://www.instagram.com/p/Chp\\_aYRBVha/](https://www.instagram.com/p/Chp_aYRBVha/); also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Elomir-IG-8\\_24\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/Elomir-IG-8_24_22.jpeg).

<sup>4</sup> Van Nguyen September 1, 2022 Instagram post, <https://www.facebook.com/van.nguyen.35728/posts/pfbid0VGN6iKLBkenCpWKYbC95KHo2w7k2V2E85dWhDuG6Xh5vWSQNHqVY8Xgbym8iatPCl>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Van-Nguyen-FB-9\\_1\\_22-capture.pdf](https://truthinadvertising.org/wp-content/uploads/2022/10/Van-Nguyen-FB-9_1_22-capture.pdf).

Prior to founding Elomir, Van Nguyen and her husband Toan Nguyen, were with several other MLM companies, including Nerium, now known as Neora, which is the subject of an ongoing FTC lawsuit that recently went to trial.

<sup>5</sup> FTC Advertising Substantiation Principles, <https://www.ftc.gov/sites/default/files/attachments/training-materials/substantiation.pdf>.

<sup>6</sup> FDA warning letter to Crystal Clear Supplements, February 4, 2022, <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/crystal-clear-supplements-620285-02042022> (“Examples of some of the claims observed on your website, your social media websites, and your products’ packaging that provide evidence that your products are intended for use as drugs include, but may not be limited to, the following: ... ‘#nootropics #anxietyrelief’ and ‘MOOD ELEVATION -ENHANCED SLEEP-HEIGHTENED FOCUS’ on the product image.”); FDA warning letter to NV Nutrition, LLC, December 1, 2021, <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/nv-nutrition-llc-617979-12012021> (“Some examples of claims observed on your websites and social media websites that established the intended use of your products as drugs include, but may not be limited to, the following: ... On the webpages titled, ‘Focus’ and ‘Focus XL’: ‘Nutriair Focus. . . full of nootropics, which may improve cognitive

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function.”); FDA warning letter to VitaCig, Inc., December 1, 2021, <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/vitacig-inc-617847-12012021> (“Examples of some of the claims observed on your website ... that provide evidence that your products are intended for use as drugs include, but may not be limited to, the following: ... VitaCig® FOCUS ... is an inhalable natural cognitive booster. ... It has a stimulation effect, improves your concentration, helps support optimal cognition and acute focus, bringing clarity of mind.”); FDA warning letter to VitaStik, Inc., December 1, 2021, <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/vitastik-inc-617713-12012021> (“Your website ... also includes various “Category” tags such as ... ‘Mental Clarity / Focus,’ ... that ... provide evidence of your products’ intended uses.”); FDA warning letter to Peak Nootropics LLC aka Advanced Nootropics, February 5, 2019, <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/peak-nootropics-llc-aka-advanced-nootropics-557887-02052019> (“Examples of some of the website claims that provide evidence your products are intended for use as drugs include the following: ... Enhances Alertness & Focus”).

<sup>7</sup> Nowhere in any of its marketing materials, including its website, does Elomir provide any evidence that it has competent and reliable scientific substantiation for its health claims.

It is also worth noting that one of the ingredients in Axis Klarity is N-acetyl-L-cysteine, or NAC, which the FDA currently classifies as a drug. *See* FDA Policy Regarding N-acetyl-L-cysteine: Guidance for Industry, <https://www.fda.gov/media/157784/download>. Accordingly, in a situation like this, it may be illegal to market the ingredient as a supplement.

<sup>8</sup> Elomir distributor Instagram post, August 23, 2022, <https://www.instagram.com/p/ChnhgVwMgE7/>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Kc-Koenig-Gimmey-IG-8\\_23\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/Kc-Koenig-Gimmey-IG-8_23_22.jpeg).

<sup>9</sup> Elomir distributor Instagram post, July 28, 2022, <https://www.instagram.com/p/CgkMhrtubzR/>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/quick2014-IG-7\\_28\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/quick2014-IG-7_28_22.jpeg).

<sup>10</sup> Elomir distributor Instagram post, September 27, 2022, <https://www.instagram.com/p/CjBobgTunBG/>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/11/Nicole-Miller-IG-9\\_27\\_22-combined.pdf](https://truthinadvertising.org/wp-content/uploads/2022/11/Nicole-Miller-IG-9_27_22-combined.pdf).

<sup>11</sup> Elomir distributor TikTok post, July 13, 2022, [https://www.tiktok.com/@notyouraveragebec/video/7119879155210145070?is\\_from\\_webapp=v1&item\\_id=7119879155210145070](https://www.tiktok.com/@notyouraveragebec/video/7119879155210145070?is_from_webapp=v1&item_id=7119879155210145070); also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/MommaBec-TT-7\\_13\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/MommaBec-TT-7_13_22.jpeg).

<sup>12</sup> Elomir distributor Instagram post, September 2, 2022, [https://www.instagram.com/p/Ch\\_lLp\\_ur\\_N/](https://www.instagram.com/p/Ch_lLp_ur_N/); also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Angie-Iginoef-Hocog-IG-9\\_2\\_22-B.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/Angie-Iginoef-Hocog-IG-9_2_22-B.jpeg).

<sup>13</sup> Elomir Opportunity page, <https://elomir.com/opportunity>.

<sup>14</sup> Van Nguyen Facebook post, July 7, 2022, <https://www.facebook.com/van.nguyen.35728/posts/pfbid033ts6zexLMjixyeQNdKogXaygwjQpPNvHemQqi95MSSaNEkLC1nsDChjq9o8aUBeh1>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Van-Nguyen-FB-7\\_7\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/Van-Nguyen-FB-7_7_22.jpeg).

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<sup>15</sup> Elomir distributor Tik Tok post, August 7, 2022, [https://www.tiktok.com/@i4i2see/video/7129173437003664682?is\\_from\\_webapp=v1&item\\_id=7129173437003664682&web\\_id=7138878520571037230](https://www.tiktok.com/@i4i2see/video/7129173437003664682?is_from_webapp=v1&item_id=7129173437003664682&web_id=7138878520571037230); also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/I4i2see-TT-8\\_7\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/I4i2see-TT-8_7_22.jpeg).

<sup>16</sup> Elomir distributor Tik Tok post, July 19, 2022, <https://www.tiktok.com/@pirzltwins/video/7122246670301220142>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/TWINS-Momma-TT-7\\_19\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/TWINS-Momma-TT-7_19_22.jpeg).

<sup>17</sup> Elomir distributor Instagram post, July 13, 2022, <https://www.facebook.com/rob.carman.58/posts/pfbid0b7HEUJafSnMVjDFAMcrbskiSHKr9HF6gzvgsDh999kzUBA3UogbSCxUb3CfamNql>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Rob-Carman-FB-7\\_13\\_22.jpeg](https://truthinadvertising.org/wp-content/uploads/2022/10/Rob-Carman-FB-7_13_22.jpeg).

<sup>18</sup> Elomir distributor Instagram post, August 17, 2022, <https://www.facebook.com/keri.d.hebert/posts/pfbid02PvmyvTwVa3vPJghiX5hjTDGRMzJUAm6sywTvYk9YK4aRsWp3GHBqNuTXrUWe5catl>; also available at [https://truthinadvertising.org/wp-content/uploads/2022/10/Kari-Daigle-Hebert-FB-8\\_17\\_22-capture.pdf](https://truthinadvertising.org/wp-content/uploads/2022/10/Kari-Daigle-Hebert-FB-8_17_22-capture.pdf).

<sup>19</sup> Elomir Income Disclosure Statement, [https://cdn.raveretailer.com/34C7E8DEEF/2022/03/GSR\\_6228b75aab7b54776141646839146.pdf](https://cdn.raveretailer.com/34C7E8DEEF/2022/03/GSR_6228b75aab7b54776141646839146.pdf).

<sup>20</sup> In addition to the deceptive health and income claims highlighted in this letter, Elomir also includes a clause in its Policies and Procedures that prohibits distributors from making “negative and disparaging comments” about the company, its products, its policies, or its compensation plan, or risk suspension or termination, potentially in violation of the Consumer Review Fairness Act, which makes it illegal for a company to use a contract provision, such as a non-disparagement clause, to prevent a person who is a party to that contract to give an honest review. *See* Elomir, Inc. Statement of Policies & Procedures, [https://cdn.raveretailer.com/34C7E8DEEF/2022/03/GSR\\_6228b766d457d4506991646839158.pdf](https://cdn.raveretailer.com/34C7E8DEEF/2022/03/GSR_6228b766d457d4506991646839158.pdf); Consumer Review Fairness Act of 2016, <https://www.congress.gov/bill/114th-congress/house-bill/5111/text>; Consumer Review Fairness Act: What Businesses Need to Know, <https://www.ftc.gov/business-guidance/resources/consumer-review-fairness-act-what-businesses-need-know>.